

L. S. J.

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THE  
*Attorney and Solicitor's*  
**COMPANION:**  
OR,  
Compleat *Affidavit-Man.*

CONTAINING,

The Laws, Statutes, Rules, and Orders, of our Courts, relating to AFFIDAVITS; and also Instructions for Drawing, and great Variety of Forms of AFFIDAVITS, in all Courts, and all Causes.

To which are added,

Some curious DEPOSITIONS and INTERROGATORIES in the most extraordinary Cases, with Directions how to be taken by Commissioners to Examine Witnesses, &c.

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*Of Use to all Attornies and Solicitors.*

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In the SAVOY: UK  
994  
ATT

Printed by E. and R. NUTT, and R. GOSLING,  
(Assigns of *Edw. Sayer, Esq;*) for *Tho. Corbet*, at  
*Addison's Head*, without Temple-Bar. 1725.

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In the 24th V. O. Y.

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# THE PREFACE

ii

least Mistake, Slip, or Omission,  
will not only merit his Endorsement,  
but be attended with an uncommon  
~~degree of Reputation to his~~

This Consideration, was an ample  
Inducement to a Work of this Na-  
ture; And **THE** my Title of  
AFFIDAVIT-MAN, seems to turn to-  
wards the following  
**PREFACE.**

**T**HAT the Drawing of AFFI-  
DAVITS, is one of the nicest  
Businesses in the Profession of the  
Law, is so very evident, that none  
can contradict it; for unless a  
Practiser be well skill'd herein, the  
least

## ii The PREFACE.

least Mistake, Slip, or Omission, will not only marr his Endeavours, but be attended with an uncommon Charge and Expence to his Client.

This Consideration, was an ample Inducement to a Work of this Nature ; And though my Title of AFFIDAVIT-MAN, seems to turn towards Mirth, yet the following Treatise is full of solid Instruction, and the Variety contained in it so very great, that most of our Attornies and Solicitors will admire to find how I could furnish so many and such various Affidavits, for their Use and Assistance.

I have here inserted above sixty different Kinds of Affidavits, with short but useful Introductions from our Books of the Law, shewing the  
- Necessity

## The PREFACE. iii

Necessity of them from the Practice of our Courts; when all the other Books yet printed and published do not any where contain a sixth Part of that Number; so that at least fifty Precedents which appear in this Volume, are wholly my own, and cannot lay Claim to any other Author.

To these Affidavits, I have added Variety of Interrogatories and Depositions of Witnesses, with Directions for taking them, the Ordering of Witnesses, and Executing of Commissions; (including the late Order of 9 Feb. 8 Georgii) whereby my Treatise might bear the Title of Compleat Commissioner, as well as what I have given it: Thus this small Work is fitted for the Practising Attornies of Town and Country,

## iv The PREFACE.

Country, who may be so far instructed by it, as to be always approv'd Men of Ability, and carry their Clients Causes with Success.

And this being a generous Piece of Service to the Profession of the Law, I hope I shall be exempted from malicious Censure, and merit the Thanks of all Attornies and Solicitors;

THE

THE  
*Attorney and Solicitor's*  
 COMPANION:  
 OR,  
 Compleat Affidavit-Man.

**A**N *Affidavit* is an Oath in Writing, sworn before some Person who hath Authority to Administer it; and is generally used in Law Proceedings.

By an Act 29 Car. 2. c. 5. It is enacted; That the Chief Justice and other Justices of the Court of *King's Bench*, or any two of them, whereof the Chief Justice of the said Court for the Time being to be one; And the Chief Justice of the *Common Pleas*, and the rest of the Justices of that Court for the Time being, or any two of them, whereof the Chief Justice to be one; And the Lord Treasurer, Chancellor, and Barons of the *Exchequer* for the Time being, or any two or more of them, whereof the Lord Treasurer, Chancellor, or Chief Baron to be one; may by Commission or Commissions, under

A

the



2     *The Attorney's Companion ; or,*  
the several Seals of the respective Courts,  
impower what and as many Persons as they  
shall think fit, in all and every the Coun-  
ties of *England*, to take and receive all and  
every such Affidavit and Affidavits as any  
Person or Persons shall be willing and desi-  
rous to make before any of the Persons so  
impowered in or concerning any Cause, Mat-  
ter or Thing depending or hereafter to be de-  
pending, or any wise concerning any of the  
Proceedings in any of the respective Courts.

Also a Judge of Assize, in his Circuit,  
may take and receive any Affidavit, that any  
Person shall be willing and desirous to make  
before him, in or concerning any Cause,  
Matter or Thing depending or to be depend-  
ing, or in any wise relating to any Proceed-  
ings to be in the said Courts of *King's Bench*,  
*Common Pleas*, and *Exchequer*, or any of them.

Which Affidavits shall be filed in the  
several and respective Offices of the said  
Courts the same do concern, and then be read  
and used in all the said Courts as other Af-  
fidavits are; and the same shall be of the  
same Effect as Affidavits taken in Court.

Provided, that the Party who takes the  
same, shall receive but 1 s. and also that the  
King's Duty shall be paid to the proper  
Officer.

An Affidavit touching a Cause in the  
Court of *King's Bench*, must be made before  
one

one of the Judges of that Court, or a Commissioner authorized by the Judges of the Court, pursuant to the Act of Parliament, if the Cause be there depending: For an Affidavit made before a Master of the *Chancery*, is of no Force in *B. R.* nor will the Court make any Rule upon such an Affidavit, it being made *Coram non Judice*, as to this Court. *Trin. 22 Car.*

The Plaintiff or Defendant may make an Affidavit in the Cause depending, and it may be filed; but it cannot be admitted in Evidence at Trial of the Cause, tho' it shall be made use of and read in Court upon Motions.

By an Order of the Court of *King's Bench*, the true Place of Habitation, and true Addition of every Person, who shall make an Affidavit, shall be inserted in his Affidavit.

And there are several RULES and ORDERS relating to Affidavits in the Court of *Chancery*.

By an Order made 28 *Feb. Anno 8 Car.* It is ordained, that no Master of the Court of *Chancery*, shall accept of or take the Oath of any Person on an Affidavit, except the same be fairly writ in one Hand, without blotting or interlining: And in case any Affidavit shall escape the Masters of this Court, and pass so blotted and interlin'd, under their or any of their Hands, It is order'd, that the Register of Affidavits or his Deputy, shall thereupon

4     *The Attorney's Companion*; or,  
refuse the same; and afterwards no Use shall  
be made thereof in any of the Proceedings of  
this Court.

By the Lord *Chancellor Clarendon's* Orders in  
*Chancery*, the Masters in taking Affidavits, and  
Administring of Oaths, are to be circumspect  
and wary, that the same be reverently and  
knowingly given and taken; and they are  
therefore to Administer the same themselves  
to the Party, and where they discern him  
rash or ignorant, to give some Admonition  
of his Duty, and be sure he understand the  
Matter contained in his Affidavit, and that  
he read the same over, or hear it read in his  
Presence, and subscribe his Name or Mark  
thereto, before the same be certified by the  
Master.

*Masters Extraordinary*, shall not within 20  
Miles of *London*, take any Affidavit, or do  
any other Act incident to the Place of Ma-  
ster of the *Chancery*: And to the End it may  
appear, whether any Master Extraordinary  
shall comply with his Duty herein, every  
such Master shall express the Name of the  
Town and County, where he shall take any  
Affidavit, &c. otherwise the same shall not  
be held Authentick, nor admitted to be filed  
or enrolled.

By Order 23 *Jan.* 5. *Car.* All Affidavits of  
the Court of *Chancery*, except those only  
which belong to the *Supplicavit Office*, shall  
before

before the same be exhibited in Court, or otherwise produced to ground any Orders Writs, Process or Proceedings of Court thereupon, be brought into the Office for Registering Affidavits, and there duly *Filed and Registered*: And no Copy of an Affidavit shall be made, but by the sworn Register of Affidavits, or his Deputy for the Time being; and no Counsel at Law, nor any of the Six Clerks, or other Clerks or Officers of this Court, nor any Solicitors of Causes, shall from henceforth Read or give in Evidence to the Court, any Affidavit that is not first Filed and Registered in the said Affidavit Office, and Attestation thereof given by a Copy under that Officer's Hand, or his Deputy: And that neither the Six Clerks, nor any of the Cursitors, nor the Register of the Court, their Clerks or Deputies, do make, pass, or enter any Orders for Attachments, Commissions of *Dedimus potestatem*, or other Commissions, Writs, Processes, or Proceedings, grounded upon an Affidavit, unless the said Affidavit be first Filed and Registered in the Affidavit Office as aforesaid.

By an Order of 15. Nov. 12. Car. 2. It is ordered, that all Affidavits of the Court of Chancery (except those which belong to the Supplicavit Office, &c.) shall be brought into the Affidavit Register's Office, and Filed and Register'd: And that this Order both at the Court at *Westminster*, at the Seals, and at the Rolls,



6     *The Attorney's Companion; or,*  
Rolls, by the Officers of this Court, and all others whom the same doth or may concern, be duly observ'd and kept, at the Perils of such, as in Contempt of this Court, shall presume wilfully or negligently not to observe the same. And further, that neither the Register of this Court, his Clerks or Deputies, shall or do at any Time hereafter draw up, sign, or set his or their Hand or Hands unto any Order whatsoever granted upon any Affidavit, unless the Affidavit be first Filed and Registred with the Register of Affidavits, and Attestation brought and shewed to the Register of this Court, his Clerks or Deputies, under the Hand of the said Register of Affidavits, or his Deputy attending in the said Office. And further, That all Affidavits taken, or henceforth to be taken before any Master of the Court, are to be brought to the said Register of Affidavits, or his Deputy, for the Time being, to be there Filed and Registred in *convenient Time* after the same be sworn unto, and before used in Court, as well to prevent Vexation and Trouble in coming often to enquire for such Affidavits, before they come into the said Office; as also that the Parties against whom the Affidavits are made, may have Time by their Counsel, to inform the Court of any Cause of Exception they may have to alledge against the same.

By



By Order 24 June, 13 Car. It is ordained, That the Fees hereafter mention'd, are the due Fees belonging to the Affidavit-Office, and so shall be esteemed and taken hereafter; and the Register or Registers of Affidavits of this Court for the Time being, and their Deputy and Deputies, shall and may henceforth receive and take the several Fees hereafter mention'd, and none other (that is to say) for Filing every Affidavit 4 *d.* for Registering of every Affidavit 4 *d.* the Side; for the copying of every Affidavit, 4 *d.* the Side; for the Register's Hand to every Copy of an Affidavit, 12 *d.* for every Certificate with the Register's Hand to it, 12 *d.* And a Table of the said Fees shall be fairly written and signed by the Lord Keeper and Master of the Rolls, and hung up in the said Office, to the End that all Suitors may certainly know what they ought to pay for the Filing, Registering, Copying, Signing, or Certifying of any Affidavit.

By an Order 26 Octob. 1 Jac. 2. Where any Person, Plaintiff or Defendant shall ground any *Motion* or *Petition* on an Affidavit of material Witnesses, to examine, whereby to gain longer Time in the Examination, such Affidavit shall not only contain the Names of the chiefest of the Witnesses, but the Points on which such Witnesses are desired to be examined, to the End the Court may see, whether such

8 *The Attorney's Companion; or,*

such Points be material to be examined, and that all Delays heretofore occasion'd by unnecessary Examination, may be avoided for the future.

By an ancient Order, no Affidavit shall be taken *against a former Affidavit*, so far as the Master in Chancery can discern or take Knowledge; which was order'd for avoiding manifest Perjury: And if such Affidavit were taken, the latter was not to be read or used, but the Party was left to his Action against the Deponent for Perjury; tho' this Court will now sometimes interpose, and either direct or restrain such Prosecution as they see Cause.

Affidavits are used for *Certifying* the Service of the *Process* or *Orders* of the Court, or something relating to the same, or other Matters touching the Proceedings in the Cause; and generally where any Motion is made, that is not of Course, an Affidavit must be read in Court of the Facts alledged. And in these *Motions*, which are of Weight and Consequence, Affidavit must be also made of Service, of Notice, and the Manner of it; and the Affidavit must be Filed, and a Copy thereof taken, if you think you shall have Need to prove your Notice.

Every Affidavit of the Service of *Process*, or any Order, should not only be true, (as all others

others ought) but also to make it of any Use, it is necessary, that it fully prove a good Service. And therefore, if the Plaintiff's Name, the Court, the Return of the Writ, or Process, the Manner of Service, or any Thing material be omitted in the Affidavit, no Attachment will issue upon it for Non-Appearance, &c. For 'till a due Service be shewn, no Contempt appears to the Court.

In an *Affidavit of Notice* of any thing to a Clerk, 'tis not enough to say, Notice was given, or the Copy delivered to the Party's Clerk in Court; but his Name must be expressly mention'd, that it may certainly appear to whom the Notice was given; and it must say Notice in Writing: And if he, who gives the Notice, does not know that the Person to whom 'tis given, is the Party's Clerk in Court, he must say, As he is *informed* and *believes*. But if the Notice be left at the Clerk's Seat with his Agent or Clerk, such Agent or Clerk need not be particularly named; for saying it was left with the Clerk or Agent of *A. B.* the Plaintiff, or of *C. D.* the Defendant's Clerk in Court is sufficient.

An Affidavit of several Persons, may, by the Manner of wording it, be made either Joint or several: But no Affidavit shall be taken or admitted tending to the Proof or Disproof of the *Title* or Matter in Question, or touching the *Merits of the Cause*; nor shall any such

10 *The Attorney's Companion*; or,  
such Matter be craftily inserted in any Affidavit of the Service of Process, &c.

For all Affidavits ought to set forth the Matter of Fact only, which the Parties intend to prove by their Affidavits; and leave the Merits to the Judgment of the Court.

Thus far have I treated of Affidavits in general; I now come to *particular Affidavits*, in all Cases, from the Beginning to the End of Law Prosecutions, with their various Forms; and both in and out of the Courts at *Westminster*.

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### Of AFFIDAVITS in B. R. and C. B.

**A**FFIDAVIT of the due taking of *Bail*, by Commissioners in the Country, pursuant to the Statute 4 *Edw. 3*; *W. & M. c. 4.* shall be made either before some Judge of the King's *Bench*, to whom the Bail shall be transmitted, or before some Persons impower'd to take Affidavits in Matters and Causes depending in the said Court.

*Affidavit of Bail taken by Commissioners.*

In Banco Regis.

Inter A. B. Quer. & C. D. Def.

E. F. of &c. in the County of &c. maketh Oath, That the Recognizance of Bail or Bail-Piece



*Compleat Affidavit-Man.* 11

Piece hereunto annexed, was duly acknowledged by &c. (naming the Bail) before G. H. Esq; the Commissioner, who took the same in this Deponent's Presence.

Jurat 5 Maii 1724.

E. F.

Coram G. H.

Where a Man is arrested by *Capias*, which requires Bail, and the Debt is under 10 l. the Defendant has no way but to make Affidavit, that he does not owe the Plaintiff 10 l. and then the Court, on Motion in the Treasury, will order a common Appearance to be taken; unless the Plaintiff shews good Cause against it by a short Day: This may also be done at a Judge's Chamber.

*Affidavit*, that the Defendant does not owe the Plaintiff 10 l. To get off Bail.

Inter A. B. Quer. & C. D. Def.

C. D. the Defendant in this Cause maketh Oath, that he, this Deponent, doth not owe nor is any ways indebted to A. B. the Plaintiff, in any Sum or Sums of Money whatsoever amounting to 10 l. And that the whole Debt of him the said C. D. due to the Plaintiff, and for which this Deponent is now prosecuted, is but 6 l.

C. D

Jurat die &c. coram &c.

If



If the Defendant moves that a common Appearance only may be taken, where a Party is arrested as aforesaid, the Court will order the Plaintiff to shew his Cause of Action by Affidavit, wherein he must swear 10*l.* due; and if the Debt be small, he must also therein make Oath, that he is afraid of losing it; or else he shall not have Special Bail.

*Affidavit*, that the Defendant doth owe 10*l.*  
To hold him to Bail.

In Com'ne Banco.

Inter A. B. Quer. & C. D. Def.

*The said A. B. maketh Oath, That C. D. the Defendant, is justly and truly indebted unto him this Deponent in the Sum of 10*l.* and upwards, as charged by this Deponent in his Suit commenced against the said C. D. And that he this Deponent, is in Danger of losing the same.*

Jurat die &c. coram &c. A. B.

On Affidavit made of Service of a Declaration in Ejectment, if the Defendant's Attorney will not enter into a Rule by Consent, to confess Lease, Entry, and Ouster, &c. the Plaintiff may move the Court, That unless the Tenant in Possession will enter into such Rule, Judgment may be enter'd against the casual Ejector.

*Affidavit*

*Affidavit of Service of a Declaration in Ejectment.*

Inter A. B. Quer. &amp; C. D. Def.

E. F. of &c. maketh Oath, That he this Deponent, did on &c. last past, deliver to G. H. Tenant in Possession of Part of the Premisses in Question, a true Copy of the Declaration in Ejectment hereto annexed. And also that he this Deponent, did on &c. deliver to I. K. Tenant in Possession of the Residue of the Premisses in Question, another true Copy of the Declaration in Ejectment hereto annexed. At the Foot of which Declaration is a Notice for the said G. H. and I. K. to appear the then next and now present Hillary Term in this Court, and defend their Title, otherwise Judgment would be entered against them by Default. And this Deponent further saith, That he told, the said G. H. and I. K. severally, That if they the said G. H. and I. K. did not appear and defend their Title, the then next, and now present Hillary Term, they would be turned out of Possession.

Jurat die &amp;c.

E. F.

No Rule is to be given for a Defendant in Custody to Appear and plead to a Declaration, 'till an Affidavit be filed with the Clerk of the Rules, of the Delivery of a Copy of such Declaration; and the Time when, and the Person to whom deliver'd, and that the Defendant was arrested or charged in Custody,

B

by

14 *The Attorney's Companion; or,*  
by Process of this Court, returnable before  
the Delivery of such Copy: And the Time  
when such Affidavit was filed, is to be entred  
on the said Affidavit by the Clerk of the  
Rules; also a Copy of such Affidavit produc'd  
to the Prothonotary, or Secondary, before  
signing of Judgment.

*Affidavit of serving a Defendant in Prison with  
a Copy of a Declaration.*

Inter A. B. Quer. & C. D. Def.

E. F. of &c. maketh Oath, That he this Depo-  
nent on &c. last past, did deliver unto the Defen-  
dant, then in the Custody of the Sheriff of &c. in  
the common Goal there, a Declaration in this Cause,  
a Copy whereof is hereto annexed; the Defendant  
being charged in Custody at the Plaintiff's Suit, by  
Virtue of a Writ of Latitat issued out of this  
Court, returnable, &c. as by the said Writ it did  
appear unto this Deponent.

Jurat die &c. coram &c.

E. F.

If there be a Mistake in a Declaration, and  
the Plaintiff gives Notice thereof before the  
Essoin-Day, and makes Affidavit of the Notice,  
the Defendant cannot take Advantage of that  
Mistake, but the Plaintiff may amend: And  
it has been ruled, That the Defendant (who  
had pleaded in Abatement because of a Mi-  
stake, whereof he had Notice) should plead  
in

in Chief, and have no Costs; but such Affidavit must be made by the Plaintiff.

*Affidavit of Notice of a Mistake, to amend a Declaration.*

Inter A. B. Quer. & C. D. Def.

A. B. the Plaintiff in this Cause, maketh Oath, That he this Deponent, did on &c. before the Essoin Day of this present Hillary Term, leave Notice in Writing with Mr. E. F. Attorney for the Defendant, of a Mistake in the Declaration served on the said Defendant in this Cause, in Order to its Amendment, and that the Defendant might be apprized of such Amendment, and plead accordingly.

Jurat die &c.

A. B.

A Dilatory Plea shall not be received in any Court, unless the Truth thereof be proved by Affidavit, or some other probable Matter shewn to induce the Court to believe that the Fact is true.

*Affidavit of the Truth of a Dilatory Plea.*

Int. A. B. Quer. & C. D. Def.

C. D. the Defendant, maketh Oath, That the Plea of &c. by him this Defendant, pleaded in this Cause, and the Fact upon which the same is grounded, are true and just; and that the said Plea is not

B. 2

unjustly



16     *The Attorney's Companion ; or,  
unjustly put in to delay and hinder the Plaintiff in the  
Cause now depending.*

Jurat die &c. coram &c.

C. D.

In Motions to alter *Venues* for Trials, the Defendant is to make Affidavit of the Place where the Cause of Action arose; and his Attorney must make one in *Latin*, in the Margin of the Declaration, of the Time of his receiving it: And where the Action is laid in any improper County, the *Venue* shall be changed *ex debito*; but if the *Venue* be changed after Notice of Trial, you must give fresh Notice, otherwise Judgment will be set aside.

*Affidavit of the Place where the Action arose,  
to alter the Venue.*

Int. A. B. Quer. & C. D. Def.

C. D. the Defendant in this Cause. maketh Oath,  
That the Debt sued for by the Plaintiff was contracted and made in the County of &c. and not in the County of &c. (as laid in the Plaintiff's Declaration) whereby the Cause of Action for the said Debt did arise, and ought to be prosecuted in the County of &c. aforesaid.

Jurat die &c.

C. D.

*Affidavit*



*Affidavit of an Attorney of the Time of receiving the Declaration.*

*Ego E. F. Attorn. Defendentis recepi hanc Narrationem super primum diem, &c. nunc ult' preterit, vel circa Clausum termini, & non antea.*

E. F.

If the Plaintiff in a Cause proceeds not to Trial after Notice, and there is no Countermand; then the Defendant shall have Costs taxed by the Secondary, upon Affidavit of Attendance and Costs.

*Affidavit of Attendance in Order to Tryal, for Costs.*

Int. A. B. Quer. & C. D. Def. in Placito &c.

E. F. maketh Oath, That he this Deponent, with the Defendant and Witnesses, attended at the last Assizes held at &c. for the County of &c. pursuant to a Notice of Trial given by the Plaintiff's Attorney; and that then the Plaintiff did not proceed to Trial, neither did this Deponent bear of, or receive any Countermand thereof.

Jurat, &c.

E. F.

If a Countermand was given at the Assizes, Say ——— neither heard or received any Countermand 'till &c. the Day of &c.

18 *The Attorney's Companion; or,*

A Rule is to made out for the Costs, which Rule must be observed by the Plaintiff's Attorney after the Master or Prothonotary hath therein set down a Day for him to attend; at which Day, if he refuse or neglect to attend, and shew no good Cause why he did not attend, the Master in C. B. taxes 26 s. 8 d. at the Foot of the Rule, which you are to recover by serving the Plaintiff personally with a Copy of the Rule, and Taxation, and demanding the Money: And if he refuses to pay it, upon Affidavit thereof, and Motion, the Court grants one Attachment.

*Affidavit of serving a Rule, and demanding Costs, for Attachment.*

Int. A. B. Quer. & C. D. Def.

C. D. the Defendant in this Cause, maketh Oath, That he this Deponent, did on &c. last, serve A. B. the Plaintiff, with a true Copy of the Rule and Taxation hereto annexed; and did also demand the Money mentioned in the said Taxation; but the said A. B. refused (or neglected) to pay the same.

Jurat die &c. coram &c.

E. F.

If the Defendant deposes any Person to receive the Money, he must make him a Letter of Attorney for that Purpose; and the Party in his Affidavit, must swear he gave the Plaintiff  
Notice

Notice that he had such a Letter of Attorney; which Affidavit is to be thus:

*Affidavit* of serving a Rule, and demanding Costs, &c. by an Attorney.

E. F. *Attorney for the Defendant in this Cause, maketh Oath, That he this Deponent, did on &c. serve the Plaintiff with a true Copy of the Rule and Taxation, &c. and demand the Money mentioned in the said Taxation; but the Plaintiff refused to pay the same, notwithstanding this Deponent gave him the said Plaintiff Notice, that he had a Letter of Attorney from the Defendant to receive the same.*

*Jurat &c.*

E. F.

Sometimes it may be necessary to make Affidavit of Countermand of Notice of Trial; and by a late Order of Court, it is ordained, that Countermands of Trials at the Assizes, shall be given two Days before the Commission Day, or they shall not be good: And no Countermand is to be given on a Sunday.

*Affidavit* of Countermanding Notice of Trial.

Int. A. B. Quer. & C. D. Def.

E. F. *Attorney for the Plaintiff, maketh Oath, That he this Deponent, did on Tuesday the &c. (three Days before the Commission Day for the Assi-*

20. *The Attorney's Companion; or,*  
*zes held at &c.) Countermand Notice of Trial*  
*in this Cause, by serving the Defendant with a*  
*Note in Writing, whereby he this Deponent made*  
*known to the Defendant, that the Plaintiff would*  
*not proceed therein at this Assizes.*

Jurat &c. coram &c.

E. F.

Where the Defendant is not willing to try  
the Cause the first Day of the Assizes, as set  
down in the Judge's Book, upon a Petition  
to the Judge, and Affidavit of the Reasons, he  
will stay it 'till another Day the same Assizes.

*Affidavit to defer a Cause at the Assizes.*

Inter A. B. Quer. & C. D. Def.

E. F. of &c. maketh Oath, That the Defen-  
dant in this Cause is not prepared to try the same;  
For that G. H. I. K. &c. his most material Wit-  
nesses are not as yet come, to make out the Defen-  
dant's Proofs for his Defence in the said Cause.

Jurat, &c.

E. F.

The Defendant or his Attorney is to have  
Notice of the Time and Place of executing a  
Writ of Enquiry of Damages; for such Writ  
being executed without Notice, the Court  
will set aside the Inquiry, and order the Plain-  
tiff to bring a new Writ, and give the Defen-  
dant timely Notice: But there must be an  
Affidavit

*Affidavit on the other Side, that no Notice was given, before the Court will set it aside.*

*Affidavit that no Notice was given of executing a Writ of Inquiry, to set it aside.*

*Int. A. B. Quer. & C. D. Def.*

*C. D. Defendant maketh Oath, That the Writ of Inquiry lately executed by the Plaintiff in this Cause, at &c. was executed without any Notice given to him this Defendant, of the Time and Place appointed for the Execution thereof.*

*Jurat die &c. coram &c. C. D.*

*The Defendant's Attorney may also make Affidavit to the like Effect, as follows:*

*Affidavit by an Attorney, that no Notice was given of a Writ of Inquiry.*

*E. F. Attorney for ... maketh Oath, That the Writ of Inquiry executed by the Plaintiff on &c. last, was executed without Notice given thereof to him this Deponent.*

*Jurat &c. E. F.*

*In Arrest of Judgment, all Matters of Fact must be made out by Affidavit: - And Judgment may be arrested, for want of Notice of Trial; for material Defect in Pleading, &c. where the Record differs from the Deed pleaded*



22 *The Attorney's Companion; or,*  
ed in some material Points; or because the  
Plaintiff before Trial, treated the Jury, &c.

*Affidavit of no Notice of Trial, on Arrest of  
Judgment.*

Int. A. B. Quer. & C. D. Def.

C. D. Defendant in this Cause maketh Oath,  
That he this Deponent had no Notice, as the Law  
directs, of the Trial had in this Cause by the Plain-  
tiff at the Assizes now held for &c. But that the  
same was tried without any Notice given thereof to  
him this Deponent.

Jurat &c.

C. D.

If the Record differs from the Deed plead-  
ed, then make your Affidavit thus:

*Affidavit that the Record differs from the Deed*  
*pleaded*

*The said C. D. maketh Oath, That the Record*  
*whereon this Cause was tryed at the now Assizes*  
*held for &c. differs from the Deed pleaded on the*  
*said Tryal; for in the Record of the said Cause*  
*the Deed is mentioned to bear Date &c. and to be*  
*made between &c. and the Deed is dated on &c.*  
*and made between &c.*

Jurat die &c. coram &c.

C. D.

Eor.

For Defect in pleading in *Arrest of Judgment*, let your Affidavit be the following:

*Affidavit of Defect in Pleading.*

E. F. Attorney for the Defendant maketh Oath, That the Council for the Plaintiff in this Cause, pleaded &c. when they should have pleaded &c. or before the Defendant pleaded his Plea of Non Cul. contrary to the Course of Practice in this Court.

Jurat &c.

E. F.

When the Plaintiff hath treated the Jury before Trial, the Affidavit is as follows:

*Affidavit that the Plaintiff treated the Jury.*

The said E. F. maketh Oath, That G. H. Attorney for the Plaintiff on &c. last, before the Trial of this Cause came on, treated with Wine and Eatables the Jury, impanelled for trying this Cause, particularly I. K. and L. M. at &c.

Jurat &c.

E. F.

A Defendant had paid the Money on a Judgment; but the Plaintiff in his Life-time, had not enter'd Satisfaction on Record, and the Executors sue a *Scire Facias* against the Defendant, who not being warned by the Sheriff, could not plead the Payment as he intended, and so Judgment was had against him by Default: But the Court order'd the  
Pro-

24     *The Attorney's Companion ; or,*  
Proceedings to be stay'd, and Cause to be  
shewn why the Judgment should not be set  
aside, on Affidavit made of the Money being  
paid &c.

*Affidavit of Money being paid, to set aside a  
Judgment, where Satisfaction is not entred.*

Inter A. B. Quer. & C. D. Def.

C. D. Defendant in this Cause, maketh Oath,  
That he this Deponent on &c. did pay to G. H. as  
Executor of whom the Plaintiff sues this Deponent,  
the Sum of &c. in full Satisfaction of the Judg-  
ment now prosecuted, tho' Satisfaction was not  
entered on Record by the said G. H. in his Life-  
time : And that this Deponent had no Notice of  
the Scire facias sued against him, whereupon he  
might have pleaded the same.

Jurat die &c. coram &c.

C. D.

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## Of AFFIDAVITS in Chancery.

THE Writ of Subpœna in Chancery, is to  
be serv'd before the Return be past,  
which is done, either by the Delivery of the  
Writ itself, under the Seal of the Court, to  
the Person of the Defendant ; or by shewing  
the Writ under Seal to him, delivering him  
a Note or Label of the Day of Appearance ;  
and

and this Note is most usual when there are more Persons than one in the *Subpœna*, so that the Body of the Writ may be reserved to be left with the last: Or the Writ may be left at the Defendant's Dwelling-House, with one of his Family; or at his Place of Residence, and be a good Service. But Affidavit must be made of the Service, before Attachment shall issue for Non-Appearance.

*Affidavit of serving a Subpœna.*

In Canc.

Inter A. B. Quer & C. D. Def.

E. F. Gent. maketh Oath, That he this Deponent did on &c. serve the Defendant C. D. with a Writ of Subpœna out of this Honourable Court, by delivering the said Writ under Seal to the said C. D. whereby the said C. D. was directed to Appear in the said Court on the Morrow of the Holy Trinity then next, at the Suit of A. B. Complainant.

Jurat die &c. coram &c.

E. F.

In Case there are several Defendants serv'd with a *Subpœna*, the Affidavit runs thus:

*Affidavit of serving a Subpœna, where there are several Defendants.*

I. K. of &c. maketh Oath, That on &c. he this Deponent did serve the Defendant C. D. and on  
C &c,



26      *The Attorney's Companion ; or,*  
    &c. did serve the Defendant E. F. and on &c. did  
    serve the Defendant G. H. with a Writ of Subpœna,  
    under the Seal of this Honourable Court, by deli-  
    vering to the said C. D. and E. F. two Labels there-  
    of, and by shewing them the Body of the said Writ  
    under Seal, and by delivering the Body of the said  
    Writ unto the said G. H. By which Writ the said  
    Defendants were directed to Appear on &c. at the  
    Suit of &c.

Jurat &c.

I. K.

If there be two several Subpœna's serv'd on  
many Defendants, then the Affidavit is lon-  
ger than the above, as appears by the follow-  
ing Precedent.

*Affidavit of serving two several Subpœna's on  
many Defendants.*

I. K of E. c. Gent. maketh Oath, That he this  
Deponent did on &c. serve the Defendant C. D. with  
a Subpœna issuing out of this Honourable Court,  
and under the Seal of the same Court, by deliver-  
ing the Label of the said Subpœna unto the said  
C. D. and at the same time shewing him the Body  
thereof under Seal as aforesaid. And this Depo-  
nent further saith, that he did on &c. serve the De-  
fendant E. F. with the said Subpœna, by deliver-  
ing the Label &c. and also that he did on &c. serve  
the Defendant G. H. with the said Subpœna, by  
delivering him the Body thereof under Seal as a-  
foresaid. And this Deponent further saith, that  
be



he did on &c. serve the other Defendants, &c. with a Subpœna issuing out of this Honourable Court, and under the Seal of the same Court, by delivering to each of them the said &c. a Label of the said Subpœna, and shewing them the Body thereof under Seal as aforesaid, the said Body being left with &c. Which said Subpœna's were both returnable the &c. and for the said several Defendants to appear in this Honourable Court at the Suit of the said A. B. the Complainant, as by the Labels thereof appeared to this Deponent.

Jurat &c. coram &c.

I. K

The Complainant making Affidavit, that he saw another serve the Writ of Subpœna, will be sufficient; or he may make Affidavit, that he heard the Defendant confess he was served with the Subpœna.

*Affidavit of another Person's serving a Subpœna.*

A. B. Complainant in this Cause, maketh Oath, That on &c. last, he saw G. H. of &c. serve the Defendant C. D. with a Writ of Subpœna issuing out of this Honourable Court, whereby the Defendant was required to Appear in the said Court on &c. at the Deponent's Suit, since the Service whereof the said G. H. is dead, or absconded so as he cannot be found.

Jurat &c.

A. B.

C 2

If

28 *The Attorney's Companion ; or,*

If the Comp'ainant heard the Defendant confess he was served with the Writ, then the Affidavit must be in this Form :

*Affidavit of the Defendant's confessing he was serv'd with a Subpœna.*

A. B. Complainant maketh Oath, That on &c. last, at &c. he heard C. D. the Defendant own and confess to E. F. that he the said Defendant was served with a Writ of Subpœna out of this Honourable Court, returnable on &c. in the Suit aforesaid.

Jurat &c.

A. B.

A Subpœna to make better Answer, contains also a Clause for Payment of Costs; and if upon the Service of such Subpœna, the Costs be not paid, the Answer of the Defendant shall not be received; but Process of Contempt issue, as for want of Answer, at the Return of the Subpœna, on Affidavit of the Service of it.

*Affidavit of Service of a Subpœna for Costs.*

E. F. of &c. maketh Oath, That on &c. he this Deponent did personally serve the Defendant with a Writ of Subpœna out of this Honourable Court, by delivering the said Writ under Seal to the Defendant; by which Writ the Defendant  
was

was enjoined to pay the Sum of &c. to the Plaintiff for Costs. And that he this Deponent did then demand the said Sum of &c. for the Plaintiff's Use, but the Defendant refus'd to pay the same.

Jurat &c.

E. F.

If a Subpœna be returnable immediate, and the Defendant lives within twenty Miles of London, he has four Days to Appear; and if above twenty Miles, eight Days; (or he has Leave given on Motion &c. to answer by Commission, when he is to appear the first Day of the following Term) But in the first Case, Affidavit must be made, that the Defendant lives in Town, or within twenty Miles thereof,

*Affidavit that the Defendant lives near London, on Subpœna returnable immediate.*

Inter A. B. Quer. & C. D. Def.

E. F. of &c. maketh Oath, That C. D. the Defendant in this Cause now liveth at &c. in the County of &c. and that the said Place is not twenty Miles distant from the City of London. Or you may say, liveth at &c. within twenty Miles of the City of London, and so hath done for some Time past.

Jurat die &c. coram &c.

E. F.

If

30 *The Attorney's Companion; or,*

If no Day be given the Defendant to *Answer*, he hath Liberty to answer any Time during the Term, except Affidavit be made by the Plaintiff, or some other for him, that the Defendant is in Town, or within ten Miles of it.

*Affidavit* that the Defendant is in Town, to answer forthwith.

Inter A. B. Quer. & C. D. Def.

A. B. the Complainant maketh Oath, That C. D. the Defendant is now at this Time in the City of London, and lodges at the House of &c. in &c. Street, as this Deponent is credibly informed and believes.

Jurat &c.

A. B.

Where a Plaintiff cannot be found nor heard of, the Court upon Affidavit and Motion, will order the *Answer* to stay, 'till the Plaintiff's Clerk in Court, by Note in Writing, shews where he lives.

*Affidavit* where the Plaintiff can't be found, to stay the Answer.

Inter A. B. Quer. & C. D. Def.

E. F. Attorney for the Defendant in this Cause, maketh Oath, That he this Deponent hath used his utmost Endeavours to find out the Complainant A. B. but

but can't hear or learn any thing of him, tho' he hath made Enquiry after the said Complainant at &c. the Place this Deponent was inform'd at which he resided.

Jurat die &c. coram &c.

E. F.

If a Bill in Chancery chargeth the Defendant with having Goods or Chattels of the Complainant's, and Discovery is to be made of what they are; in such Case, the Goods being in the Country, and the Defendant here, he may make Oath he cannot make perfect Answer to the Plaintiff's Bill, without Sight and Perusal of the Goods: So likewise where he cannot make Answer without Sight of some Evidences or Writings, which he hath in the Country, he may make Affidavit thereof, to excuse his Delay; but the Place in the Country where the Parties live, Goods, Writings, or Evidences are, must be above twenty Miles from London; for otherwise the Defendant must answer within eight Days after Appearance, unless further Time be given him by Order.

*Affidavit* that the Defendant can't answer without Sight of Goods.

Inter A. B. Quer. & C. D. Def.

C. D. Defendant in this Cause, maketh Oath, That he this Deponent cannot give in a full and perfect



32     *The Attorney's Companion; or,*  
*perfect Answer to the Complainant's Bill of Com-*  
*plaint, without the Sight and Perusal of the Goods*  
*and Things mentioned in the said Bill, which Goods*  
*and Things now are at &c. in the County of &c.*  
*above twenty Miles distant from the City of Lon-*  
*don.*

Jurat die &c. coram &c.     C. D.

When the Defendant can't Answer with-  
out Sight of Writings, draw the Affidavit  
thus:

*Affidavit* that the Defendant cannot Answer  
without Sight of Writings.

C. D. the Defendant, deposeth, That he cannot  
make Answer to the Complainant's Bill without  
the Sight of the Indenture of Mortgage, &c. in the  
said Bill referr'd to, which is not at present in this  
Deponent's Custody, but at &c. in the County of  
&c.

Jurat &c.     C. D.

On Affidavit made, that a Defendant was  
sick and weak, and so disorder'd in his Mind,  
that he was not able to Answer; the Court on  
Motion, order'd all Procefs of Contempt to  
stay some reasonable Time, 'till a Master  
should go and see if he were capable of an-  
swering or not.

*Affidavit*

*Affidavit of a Defendant's being sick, and not able to Answer.*

Inter A. B. Quer. & C. D. Def.

E. F. of &c. maketh Oath, That on &c. last, he saw C. D. the Defendant in this Cause, at his House at &c. and that the Defendant was then so very sick and weak in his Bed, and so disorder'd in his Senses, that he was not capable of answering the Complainant's Bill of Complaint in this Suit, as he this Deponent apprehended.

Jurat die &c. coram &c.

E. F.

If Affidavit be made that the Defendant is Sick, or disabled to attend to give in his Answer; and the Plaintiff refuse to allow of a *Dedimus potestatem* on Behalf of the Defendant for taking his Answer, the Court of Chancery upon Motion, will order it.

*Affidavit that a Defendant is not able to attend, for a Commission to take his Answer.*

Inter A. B. Quer. & C. D. Def.

E. F. of &c. maketh Oath, That the Defendant in this Suit, by Reason of Lameness with the Gout, which for some Time past hath confined him to his Chamber, is disabled to attend to perfect his Answer

34     *The Attorney's Companion; or,  
swer to the Complainant's Bill of Complaint in  
this Cause.*

Jurat &c.

E. F.

No Commission to examine Witnesses, shall be executed in London; or within ten Miles thereof, without special Order, obtain'd upon Affidavit of the Witnesses Inability to travel, or other good Matter shewn: But on such Affidavit made, it may be done.

*Affidavit that a Witness is not able to travel,  
for a Commission.*

Inter A. B. Quer. & C. D. Def.

E. F. of &c. maketh Oath, That G. H. a material Witness for the Defendant in this Cause, is so very aged and infirm, that he is unable to travel to be examined as a Witness in the Suit now depending.

Jurat die &c. coram &c.

E. F.

If the Commissioners to execute a Commission, do not on both Sides attend, and one Side only examines; if Affidavit be made of reasonable Cause of Non-Attendance, and that the other Party knows nothing of the Depositions, &c. the Court will grant him a Commission to examine, and order Publication to be staid.

*Affidavit*

*Affidavit of the Cause of Non-Attendance on a Commission to examine Witnesses.*

Inter A. B. Quer. & C. D. Def.

C. D. the Defendant maketh Oath, That G. H. his principal Commissioner for executing the Commission to examine Witnesses in this Cause, at the Time the said Commission was to be executed, being at &c. was suddenly taken ill, so that he could not attend the Execution thereof; and further that he this Deponent nor any for him or by his Direction or Knowledge, hath seen, heard, or been informed of the Depositions taken by the Complainant, nor willingly will see or endeavour to know the Contents of the same until Publication.

Jurat die &c. coram &c.

C. D.

A Defendant may at any Time before Publication have a new Commission to examine his Witnesses, provided Affidavit be made that he, or any for him, has not seen, nor will see &c. any of the Depositions taken in the Cause.

*Affidavit that the Defendants know nothing of Depositions, to have a new Commission.*

Inter A. B. Quer. & C. D. & al. Deftes'

The Defendants C. D. and E. F. and G. H. the Defendant's Solicitor in this Cause, do severally

36 *The Attorney's Companion ; or,*

*by make Oath, That they nor either of them, nor any other Person by their Privy, or to their Knowledge, or by their Procurement, have seen, been inform'd of, or know the Contents of any of the Depositions taken in this Cause, neither will they see or endeavour to know the Contents of them or any of them until the said Defendants have executed their Commission, if the Court will be pleased to grant them one. And the said Defendants further make Oath, That they have not yet had one Witness examined in this Cause, and that I. K. L. M. &c. are material Witnesses for them, without whose Testimony they are likely to be ruined.*

*Jurat die &c. coram &c.*

C. D.

E. F.

G. H.

It may be requisite sometimes that Affidavit be made of the Service of *Interrogatories*, when the following will serve.

*Affidavit of serving Interrogatories.*

*E. F. of &c. maketh Oath, That he this Depo-  
nent on &c. did leave with T. D. the Plaintiff's  
Clerk, a true Copy of certain Interrogatories exhi-  
bited in the Examiner's Office, for the Examination  
of Witnesses for the Defendant.*

*Jurat &c.*

E. F.

When



When a Case happens that is out of the ordinary Rules for Publication, the Way to obtain an Order for Publication, is by Petition or Motion; and if it be by Motion, you ought to have an Affidavit of Notice, in this Form:

*Affidavit of giving Notice of Motion, for Publication out of the ordinary Rules.*

Int. A. B. Quer. & C. D. Def.

E. F. of &c. maketh Oath, That he this Deponent did on &c. leave a Notice in Writing at the Seat of Mr. W. E. the Defendant's Clerk in Court (as this Deponent is inform'd) with the said Mr. E's Clerk to the Effect following; That the Plaintiff intended to move the Court on &c. next, or as soon after as Council could be heard, that Publication may pass in this Cause the &c. Day of the next Term, and that the Plaintiff may be at Liberty to set down his Cause for Hearing some Time the same Term.

Jurat &c.

E. F.

There are other Affidavits of Motions in Court, sometimes by the Plaintiff, and sometimes the Defendant: If by the Defendant, the Affidavit may be thus:

D

*Affidavit*

*Affidavit of giving Notice of a Motion by the Defendant.*

Int. A. B. Quer. & C. D. Def.

E. F. of &c. maketh Oath, That on &c. he this Deponent did leave Notice in Writing at the Seat of &c. in the Six Clerks Office, who, as he is inform'd, is the Clerk in Court that is concern'd for the Plaintiff in this Cause, that the Defendant did intend by his Council to move this Court on &c. or as soon after as his Council can be heard.

Jurat &c. coram &c.

E. F.

In the Court of Exchequer, Affidavit of Notice of a Motion is made as follows:

*Affidavit of Notice of an intended Motion in the Exchequer.*

In Scio.

Inter A. B. Quer. & C. D. Def.

E. F. of &c. maketh Oath, That he this Deponent did on &c. leave Notice in Writing with Mr. — at his Seat in the Exchequer Office, to the Effect following (viz.) That the Defendant intended to move the Court on &c. next, being the &c. Instant, or as soon after as Counsel could be heard, that the Plaintiff might answer the Defendants

dant's Cross Bill before the Defendant puts in his Answer to the Plaintiff's original Bill, which Mr. — is the Plaintiff's Clerk in Court in this Cause, as this Deponent is inform'd and believes.

Jurat &c.

E. F.

If you are to make Affidavit of the Service of an Order, the following will serve.

*Affidavit of Service of an Order.*

Inter A. B. Quer. & C. D. Def.

E. F. of &c. maketh Oath, That on &c. last past he this Deponent did serve Mr. — who is concern'd for the Defendant in this Cause, with the Order hereto annexed, by shewing the same, and delivering a true Copy thereof unto &c. Servant of the said Mr. — at his said Master's Seat in the Six Clerks Office.

Jurat die &c. coram &c.

E. F.

Affidavit is to be made of Service of the Process to hear Judgment; if a Defendant do not appear at the Day of Hearing, when the Defendant's Answer shall be read, and the Matter being apparently for the Plaintiff, the Court will decree the same accordingly. This Process is to be served personally, or left with one of the House or Family of the Party; and if above twenty Miles from London, must be served fourteen Days before the Time to hear Judgment; and if within

40 *The Attorney's Companion ; or,*  
twenty Miles of London, then ten Days before.

*Affidavit of serving Process to Hear Judgment.*

Inter A. B. Quer. & C. D. Def.

E. F. of &c. Gent. maketh Oath, That he this Deponent did on &c. serve the Defendant C. D. with Process of Subpoena to hear Judgment in this Cause, issuing out of this honourable Court, by leaving the same with &c. one of the Family of the Defendant, whereby the said Defendant was required to attend this honourable Court on &c. and Hear the Judgment of the said Court in the Cause now therein depending.

Jurat, &c.

E. F.

When Decrees are obtain'd, Writs of Execution of them follow, of the Service of which, Affidavit must be made; and also of the Demand of the Money, &c. recovered, and Refusal of its Payment.

*Affidavit of the Service of a Decree, &c.*

Inter A. B. Quer. & C. D. Def.

E. F. of &c. maketh Oath, That upon &c. last, he this Deponent, did personally serve the Defendant with the Writ of Execution of a Decree made in this Cause. by shewing the said Writ under Seal of the said Court unto the said Defendant, at his  
House

House in &c. and delivering unto him a Copy thereof, by which Decree and Writ the Defendant was to pay &c. in the said Decree mentioned. And at the same Time this Deponent shewed unto the said Defendant a Letter of Attorney under the Complainant's Hand and Seal, empowering this Deponent to ask and receive of the said Defendant the said Sum of &c. a Copy of which said Letter of Attorney this Deponent then also left with the said Defendant, of whom he did demand the said Sum of &c. but the Defendant did not then pay the same, or any Part thereof to this Deponent, nor hath he yet paid the same to this Deponent, or to the Plaintiff, or to any other for his Use, to this Deponent's Knowledge.

Jurat die &c. coram &c.

E. F.

Where an *Injunction* is pray'd by Bill to stay Waste, Affidavit must be made, that some Waste or Spoil is done, or threatned to be done in the Lands, Houses, &c. wherein the Complainant claims a Right or Interest, or for which he sues.

*Affidavit of Waste committed, on granting an Injunction.*

Int. A. B. Quer. & C. D. Def.

A. B. the Complainant maketh Oath, That C. D. the Defendant in this Cause, on &c. last past, did pull down and destroy Part of the House and Out-houses



42 *The Attorney's Companion; or,*  
*houses at &c. to which the Complainant hath lawful*  
*Title, and for which he is now suing the Defendant;*  
*And that the said C. D. did also fell and cut down*  
*several Timber Trees upon the Lands belonging to*  
*the same, and continues to commit other Waste and*  
*Spoil in and upon the Estate of the said A. B. to*  
*the great Damage of him this Deponent.*

*Jurat die &c. coram &c.*

*A. B.*

*In Case a Man be prosecuted at Law for a*  
*Debt, when in Truth there is no Debt due;*  
*the Person unjustly prosecuted may bring a*  
*Bill in Chancery to stay the Proceedings at Law,*  
*by making Affidavit he cannot defend him-*  
*self for Want of Witnesses, &c.*

*Affidavit that the Plaintiff owes nothing to*  
*the Defendant, to stop Proceedings at Law.*

*Int. A. B. Quer. & C. D. Def.*

*The Complainant A. B. maketh Oath, That the*  
*now Defendant doth sue and prosecute this Depo-*  
*ment at Common Law for the Sum of &c. being*  
*Money as the Defendant pretends is due to*  
*him upon a Judgment, when in Truth this Depo-*  
*ment is not justly indebted unto the Defendant one*  
*Penny, but he hath caused this Deponent to be ar-*  
*rested and held to Bail for the same, and doth pro-*  
*ceed against this Deponent, knowing that this De-*  
*ponent's Witnesses that could prove the Payment of*  
*the Money, are gone aside, and that the Deponent*

*is*

is not able to prove the same, but by the Defendant's own Oath.

Jurat die &c. coram &c.

A. B.

A Decree may be revers'd by Bill of Review; but this Bill cannot regularly be brought upon any Matters in Fact, or upon any other Matters of Record than the Decree itself: It must be brought upon some Error of Law appearing in the Body of the Decree. But if there be Oath made of the Discovery of some new Matter, which could not be had at the Time when the Decree pass'd, a Bill of Review may be exhibited, by Leave of the Court.

*Affidavit of New Matter, to bring a Bill of Review after a Decree.*

Int. A. B. Quer. & C. D. Def.

C. D. the Defendant maketh Oath, That since the Time of the Decree in this Cause, he this Deponent hath discovered new Matter of Moment in the said Cause, particularly that the Plaintiff on &c. did &c. which the Deponent could not possibly know, to make Use thereof in his Defence at the Time of the Decree pass'd.

Jurat die &c. coram &c.

C. D.

Servants of a Master, Minister, or Officer of the Court of Chancery, must make Affidavit

44 *The Attorney's Companion; or,*  
vit that they are so, before they shall be al-  
low'd a *Writ of Privilege*; and the *Writ* for  
such, must first be presented to, and sign'd by  
the Lord Chancellor, and the Affidavit be at  
the same Time annexed to it.

*Affidavit* that a Person is Servant to a Master  
in *Chancery*, to have Privilege.

A. B. maketh Oath, That he this Deponent is  
now at this Time Clerk and Servant to &c. one of  
the Examiners of the High Court of Chancery,  
and so hath been for some Time past.

Jurat &c.

A. B.

If a *Bill* in *Chancery* be brought to recover  
*Writings*, there must be an Affidavit made by  
the Plaintiff that he had such Writings in his  
Possession, but has casually lost them, and  
knows not where they are, unless they are  
come to the Defendant's Hands: But if he  
knows they are in the Defendant's Hands,  
then the Affidavit may be to that Purpose.

*Affidavit* that the Plaintiff had Writings, but  
hath lost them.

Int. A. B. Quer. & C. D. Def.

The Plaintiff A. B. maketh Oath, That some  
Time since, on &c. last, the Writings now sued  
for in this Cause, were in his Custody and Pos-  
session;

feſſion; but ſince the ſaid Time be this Deponent hath accidentally loſt them. And this Deponent further maketh Oath, That he doth not know where the ſaid Writings are, unleſs they are come to the Hands of the Defendant.

Or, that the ſaid Writings are now in the Cuſtody of the Defendant, as he is inform'd and believes.

Jurat &c.

A. B.

In Bills of Enterpleader and Supplemental Bills, there muſt be no Colluſion on the bringing of them, of which Affidavit is to be made, and of the Truth of them.

*Affidavit of the Truth of a Bill.*

A. B. maketh Oath, That he was privy to all the Matters alledged and contained in the Plaintiff's Bill, touching &c. And that the whole Subſtance of the Plaintiff's Bill and the Matters therein contain'd are true.

Jurat &c.

A. B.

If a Plaintiff or Defendant is not worth 5 l. beſides the Matter in Queſtion, the Court of Chancery will admit him to ſue or defend in *Forma Pauperis*: And the Way to obtain ſuch Admiſſion, is firſt to make an Affidavit before a Maſter, that he is not worth 5 l. and then draw a Petition to the Lord Chancellor,

46 *The Attorney's Companion; or,*  
cellor, or Master of the Rolls, praying to  
be admitted, and to have Counsel &c. assigned  
him.

*Affidavit of a Pauper, that he is not worth  
five Pounds.*

Int. A. B. Quer. & C. D. Def.

*The said Complainant A. B. maketh Oath, That  
be this Deponent is not worth in all the World the  
Sum of five Pounds in Lands, Tenements, Goods,  
or Chattels, his Wearing Apparel and the Matters  
of this Suit only excepted.*

Jurat die &c. coram &c.

A. B.

On Affidavit made that a Person intends to  
go out of the Realm, to another Person's Da-  
mage; a Writ *Ne exeat Regnum* will issue to re-  
strain him from quitting the Kingdom: And  
this Writ is mostly used, where a Suit is com-  
menced in this Court against a Man, and he  
designing to defeat the other of his just De-  
mand, or to avoid the Justice and Equity of  
this Court, is about to go beyond Sea; or  
where a Debt or Duty will be endanger'd if  
he goes.

*Affidavit*



*Affidavit of a Person's intending to leave the Kingdom, to give Security not to do it.*

*Inter A. B. Quer. & C. D. Def.*

*A. B. the Plaintiff maketh Oath, That the Defendant C. D. designing to evade the Justice of this Court, and damage the Deponent in his just Cause, is going to Holland, or some other remote Parts beyond the Seas, as he this Deponent is credibly inform'd and believes; And that the said C. D. hath let his House, and sold off his Goods, preparatory to the same.*

*Jurat die &c. coram &c.*

*A. B.*

*If this Writ be desired where a Debt or Duty will be in Danger by a Man's leaving the Kingdom, then draw the Affidavit thus:*

*Affidavit for a Writ Ne exeat Regnum.*

*A. B. maketh Oath, That C. D. oweth unto him this Deponent the Sum of &c. and being thus indebted, the said C. D. threatens to leave this Kingdom, whereby this Deponent will either lose his said Debt, or the same will be very much endangered.*

*Jurat &c.*

*A. B.*

*If any of the Complainant's Witnesses in a Cause, are going beyond Sea, or Sick, &c. whereby*

48 *The Attorney's Companion* ; or,  
whereby the Plaintiff is in Danger of losing  
their Testimony, the Court, on Affidavit made,  
will order them to be examined *de bene esse*, be-  
fore Answer, so as to be valid if the Plain-  
tiff hath not an Opportunity of examining  
them afterwards.

*Vide ante*, Affidavit of a Defendant's being  
sick, and not able to answer, &c.

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### Of AFFIDAVITS out of Court.

WHERE Depositions are not taken  
in a Cause, and a Deed is to be  
proved, an Affidavit may be necessary that  
the same was duly executed in the follow-  
ing Form:

*Affidavit of seeing Deeds executed.*

A. B. of &c. maketh Oath, That he this De-  
ponent did see the Parchment Writing, or Inden-  
ture, hereto annexed, bearing Date &c. sealed and  
executed by &c. therein named ; and did also see  
one other Writing bearing Date &c. and made be-  
tween &c. executed by &c. And he this Deponent  
subscribed his Name to each of the said Writings,  
or Indentures of &c. as a Witness to the Sealing  
and Execution of them respectively.

Jurat &c.

A. B.  
Tho'

Tho' by a late Statute, Care is taken to prevent the ill Effects of *Prior Mortgages*, on lending Money upon Estates, by obliging the Mortgagor to discover the same, or be liable to forfeit his Equity of Redemption; yet for a greater Security in these Cases, where the Mortgagor is a Stranger to the Person advancing the Money, it may not be amiss to insist upon an Affidavit that the Lands mortgaged are free from all Incumbrances,

*Affidavit that Lands are free from Incumbrances, on a Mortgage.*

A. B. of &c. Gent. and E. his Wife, make Oath as followeth, (viz) The said A. B. and E. his Wife, do, and each of them doth say, That they or either of them have not nor hath done, committed, or wittingly and willingly suffered any Act or Thing whatsoever, whereby the Lands, Tenements, Hereditaments, and Premises, or any Part thereof mentioned and contained in certain Indentures bearing Date &c. and made between &c. were, or are, or (as they believe) may or can be any ways impeached or incumbered in Title, Estate, Charge, or otherwise howsoever (except as is herein after excepted) And that all the said Premises now are absolutely free of and from all Incumbrances whatsoever had, made, committed, or suffered by the said A. B. and E. his Wife, or either of them to the Knowledge or Belief of the other of them, or to their

E

50 *The Attorney's Companion; or,*  
*their Knowledge or Belief, by any other Person or*  
*Persons whatsoever. Except one Indenture bearing*  
*Date &c. made between &c. and purporting &c.*  
*which said Indenture is mentioned and excepted*  
*in the Indentures of Mortgage abovementioned.*  
*Jurat, &c.*

A. B.  
E. B.

To induce a Purchaser to Credit that an E-  
state purchased is really and bona fide of such an  
yearly Value, I have known an Affidavit de-  
manded for his Satisfaction herein, that the  
Estate is worth the Value per Annum, rated  
on the Purchase, and so hath been let for ma-  
ny Years past.

*Affidavit that Lands are of such an yearly*  
*Value, on a Purchase.*

A. B. of &c. Gent. maketh Oath, That the  
Messuage or Tenement &c. with the Lands and  
Premises thereunto belonging, situate &c. in and  
by certain Indentures of Lease and Release bearing  
Date &c. and made between &c. conveyed to C. D.  
Esq; now are in his this Deponent's Judgment worth  
100 l. per Annum to be let; And that the said  
Messuage, or Tenement, and Lands have been let at  
the Rate of 100 l. per Annum for near twenty  
Years past by him this Deponent, without any pri-  
vate Contract or Agreement for returning any Part

of



of the Rent to the Tenants and Occupiers thereof, or any other Person or Persons whatsoever for their Use, Benefit or Advantage: And also th. t. be this Deponent hath not given paid or allow'd any Gift, Gratuity or Reward, of Money or other Thing, to the Tenants of the said Premisses, or any for their Use or Benefit, as a Consideration for their paying the said Rent of 100 l. per Annum to this Deponent, but the same hath been ever fully and bona fide paid to him this Deponent, without any Deduction during the Time aforesaid.

Jurat &c.

A. B.

If a Man denies a Debt due to another, on Pretence he hath paid Part thereof, but offers to pay the whole on such others making Affidavit that the whole is due, an Affidavit of it may be drawn as follows:

*Affidavit that a Debt remains due, and no Part of it received*

A. B. of &c. maketh Oath, That neither he nor any other Person or Persons for him, or to his Use, to his Knowledge or Belief, have or hath received, either directly or indirectly, any Part of the Sum of &c. due to him this Deponent from &c. And that not only the whole Sum of &c. but also the Interest thereof from &c. now remains justly due and owing to this Deponent.

Jurat &c.

A. B.

In



52 *The Attorney's Companion; or,*

In order to the taking out a *Commission of Bankrupt* against a Man, one of his Creditors must make Affidavit before a Master in *Chancery*, that he is indebted in a Sum sufficient to make him a Bankrupt, &c. according to the Statutes; which Affidavit must be followed by a Petition to the Lord Chancellor: And thereupon, a Bond being given to the Lord Chancellor to prove the Debt, and the Party a Bankrupt, a Commission is granted, the Bankrupt examined, his Effects seized, and Distribution made amongst his Creditors thereof.

*Affidavit of a Debt by Law sufficient to make a Man a Bankrupt.*

*A. B. of &c. maketh Oath, That C. D. of &c. is truly and justly indebted to him this Deponent (one of his Creditors) in the Sum of 100 l. and upwards, And that he is become a Bankrupt within the meaning of some one of the Statutes made against Bankrupts, as this Deponent believes.*

*Jurat &c.*

*A. B.*

Every Creditor is to subscribe his Debt, and likewise make Affidavit thereof, if no other Proof can be made, and the same be required by the Commissioners.

*Affidavit*

*Affidavit proving a Debt due from a Bankrupt.*

*A. B. of &c. maketh Oath, That C. D. late of &c. at the Time of his becoming a Bankrupt was justly and bona fide indebted to him this Deponent in the Sum of &c. And that he this Deponent hath not been since paid or satisfied the same or any Part thereof.*

*Jurat &c.*

*A. B.*

It may happen, in the various Business which goes through an Attorney's Hands, that an Affidavit may be wanting of a Promise made; I shall therefore here insert the Form of an Affidavit proper in such a Case.

*Affidavit of a Promise made to a Person.*

*A. B. of &c. maketh Oath, That C. D. on &c. last past, or about &c. did promise to allow to this Deponent the Sum of &c. out of &c. which he this Deponent was to pay unto the said C. D. (or for such and such Services done) And that the said C. D. hath not at any Time since perform'd his said Promise, by making such Allowance to him this Deponent.*

*Jurat &c.*

*A. B.*

54 *The Attorney's Companion; or,*

If a *Marriage* should be denied, by either Husband or Wife to serve a Purpose, no Certificate being given of the said Marriage, or if it be given it being lost, and a Difficulty attends the procuring of another, by Reason of Remoteness of Place, Death of the Minister, &c. In such like Case, Affidavit may be made of the Performance of the Marriage Ceremony.

*Affidavit of a Marriage consummated.*

A. B. of &c. maketh Oath, That on &c. in the Year &c. or as near the same as this Deponent can remember, he this Deponent was present at the Church of &c. and did then and there see the Reverend Mr. T. D. Minister of the said Church, marry according to the Rites and Ceremonies of the Church of England, Mr. C. D. to Mrs. E. F. which Marriage was then and there solemnized about the Hour of Nine in the Forenoon, to the best of this Deponent's Remembrance.

Jurat &c.

A. B.

All *Irish Acts of Parliament*, before they obtain the Force of Laws, are transmitted to this Kingdom, to be approved of by his Majesty in Council; and if any Person be injured by any *Irish Bill*, sent over hither, he may prefer his Petition against it to the Council Board, which will order the Case to be re-

referred to Mr. Attorney and Solicitor-General; and they, in Obedience to the Order of ference, appoint a Day of Hearing, at the Attorney-General's Chambers, where the Allegations of the Petition being read, and Counsel heard on both Sides, the Attorney and Solicitor report the Matter as it appears to them, to the Lords of the Council, on which Report the Bill is either approved of here, or thrown out and suspended.

Here all Matters are made out by proper Affidavits, taken before a Master in Chancery, and produced to the Attorney and Solicitor-General; which Affidavits are annexed to their Report, to justify the same, and their Proceedings in these Affairs.

*Affidavit of several Matters against an Irish Act of Parliament.*

A. B. of &c. maketh Oath, That the Mills of &c. in &c. in the Kingdom of Ireland, granted by his present Majesty by Letters Patent to C. D. Esq; his Heirs and Assigns, are now rebuilt and fitted up by the said C. D. for grinding of &c. into fine Flower. And that the said Mills thus fitted up and rebuilt, will not grind &c. like other Mills of the Kingdom of Ireland without an extraordinary Expence and Trouble, beyond what the other Millers of the said Kingdom have any Occasion for; and the said A. B. also maketh Oath, That  
above

56      *The Attorney's Companion; or,*  
above the Sum of &c. hath been laid out and expended by the said C. D. to rebuild and put the said Mills in Order for their present Use, which Money if a certain Irish Bill for preventing several Abuses committed by Millers, Bakers, Farmers, &c. should pass without a saving Clause in Behalf of the said C. D. is all thrown away, and lost to the said C. D. And this Deponent further saith, That there are Mills sufficient within three Miles of Dublin, to grind all the Corn of the Bakers there, without the Use and Assistance of the Mills of &c. aforesaid.

Jurat &c.

A. B.

*Another Affidavit relating to an Irish Bill.*

A. B. of &c. Gent. maketh Oath, That in a certain Irish Bill for preventing several Abuses committed by Millers, Bakers, and Farmers, the Limitation and Extent of the said Bill to be in Force in the Kingdom of Ireland, was not three English measured Miles, as it now appears, when brought into the House of Commons of that Kingdom; But three Miles in general, understood to be computed Irish Miles, which are much longer than English Miles, And he further maketh Oath, That the Proviso now inserted in the aforesaid Irish Bill, in Favour of &c. was not at first contained in the said Bill, but is an after Amendment and Addition to the same; made for the Ease and



and Benefit of &c. and other Millers of Ireland.

Jurat &c.

A. B.

Of INTERROGATORIES and DEPOSITIONS, with Directions how to Draw them, and for executing Commissions to examine Witnesses.

THE *Depositions* of Witnesses having a near Affinity with *Affidavits* in a Cause, tho' they are superior to them, as they tend to the Proof of the Matter in Question; I shall by Way of Addition or *Second Part* to my Treatise, insert the Rules and Orders of Court thereto relating, and some curious Precedents of *Interrogatories* and *Depositions*, with the Methods of examining of Witnesses in all Cases.

By the Lord Clarendon's Orders in *Chancery*, when the Parties are at Issue, and proceed to examine Witnesses; the *Interrogatories* are to be penned with Care, that the same be pertinent and only to the Points necessary, and the Witnesses are to be sorted and examined on those *Interrogatories* only, that their Testimony

58 *The Attorney's Companion; or,*  
Simony doth extend unto, without the need-  
less Interrogating of Matters unnecessary or  
immaterial, as well to avoid the Charge of both  
Parties, Plaintiff and Defendant, in superflu-  
ous Examinations, as that apt Interrogato-  
ries (which are the Life of the Cause) may  
be exhibited.

No Witness shall be examined in Court by  
the *Examiner*, without the Privy of the Ad-  
verse Party, or of the Clerk who deals for  
him, to whom the Person to be examined  
shall be shewed, and a Note of his Name  
and Place of Dwelling deliver'd in Writing,  
by such as shall produce him; and the Exa-  
miner is to take Care, and be well satisfied,  
that such Notice be given, and then shall add  
to the Title of the Witnesses Examination the  
Time of such Notice given, and the Name of  
that Person to whom it is given, and by  
whom, that at the Hearing of the Cause the  
Suiter may not be delay'd upon Pretence of  
want of Notice.

When Witnesses are examined in Court up-  
on a Schedule of Interrogatories, there shall  
be no new Interrogatories put in to examine  
the same Witnesses; nor shall any Witnesses  
be examined in Court after the Day of Pub-  
lication, tho' they were sworn before, so as  
a Copy of the Rule or Order, whereby Pub-  
lication passed, be deliver'd to the Examiner,  
that he may take Notice thereof. By a former  
Order

Order new Interrogatories may be exhibited into Court for Examination of new Witnesses at any Time before Publication; although there be a Joint Commission executed in the Cause.

The Examiner is to examine the Deponent to the Interrogatories directed, *seriatim*, and not permit him to read over, or hear read any other Interrogatories, until that in Hand be fully finished; much less is he to suffer the Deponent to have the Interrogatories and Pen his own Depositions, or to depart after he hath heard an Interrogatory read over, until he hath perfected his Examination thereof. And if any Witness shall refuse so to conform himself, the Examiner is thereof to give Notice to the Clerk of the other Side, and to proceed no farther in his Examination, without the Consent of the said Clerk, or Order of Court to warrant his so doing.

No Examiner shall examine any Witnesses, to invalidate the Credit of any other Witness, but by special Order of Court; which is sparingly to be granted, and upon Exceptions filed with the Examiner, and Notice thereof given to the adverse Party or his Clerk. together with a true Copy of the said Exceptions, at the Charge of the Party so examining.

The Examiners are themselves in Person, to be diligent in Examination of Witnesses,  
and

60 *The Attorney's Companion ; or,*

and not intrust the same to mean and inferior Clerks; and are to take Care to hold the Witnesses to the Point interrogated, and not to run into Extravagancies, and Matters not pertinent to the Question. They are also to take Care that they employ under them, none but Persons of known Integrity and Ability, who shall take an Oath not to deliver or make known, directly or indirectly, to the adverse Party, or any other save the Deponent who comes to be examined on any of the Interrogatories to be examined upon any Examination by him taken or remaining in the Examiner's Office, any Extract, Copy or Breviate thereof, before Publication passed, and the Copies thereof duly taken: And if any Deputy, Clerk, or Person so employ'd, shall be found faulty in the Premises, he shall be expulsed the Office, and the Examiner who employ'd him, shall be also answerable to the Court for such Misdemeanor, and to the Party grieved for his Costs and Damages sustained thereby.

In examining of Witnesses, the Examiner shall not use any idle Repetitions, or needless Circumstances, nor set down any Answer to the Question to which the Examinant cannot depose, other than thus; *To such an Interrogatory this Examinant cannot depose*: And in case there be any Impertinencies observed by the Court, the Examiner is to recompence the Charge



Charge thereof to the Party grieved, as the Court shall award.

After Witnesses are examined in Court, there shall be two Rules given for Publication, *viz.* an Ordinary Rule, then a Day to shew Cause why Publication should not pass; and upon the Return of a Commission, one Rule only is to be given; within which Times, if the other Side do not shew unto the Court good Cause to the contrary, Publication shall pass accordingly.

When a Commission is awarded to examine Witnesses, if by Default of him that hath the Carriage of the Commission, or by his Commissioners, nothing is done, he shall bear all the Charges the other Side was put unto about that Commission, either for Fees of Court, bringing or entertaining Commissioners or Witnesses, or otherwise, to be ascertained by the Oath of the Party, or of him that disbursed the Money for him; and shall renew the Commission at his own Charge.

If a Commission is awarded to examine Witnesses, and the one Side produceth and examineth all his Witnesses, but the other Side doth not, but prays a new Commission; if it be granted, he shall bear all the Charges of the renewed Commission, both in Court and in the Country, as well for the Charge and Entertainment of his own Commissioners,



as of the Commissioners on the other Side; and the other Side shall be permitted to cross-examine the Witnesses produced by him that renews the Commission: But if he will examine any other Witnesses of his own, then he shall bear his own Part of the Charge; the Charges to be ascertained by the Oath of the Party, &c.

He at whose Instance a Commission to examine Witnesses after a former Commission executed and returned, is once renewed; and he, by whose Default, or by Default of his Commissioners, a former Commission was not executed, and thereupon it is renewed; shall at his Peril examine all his Witnesses by that renewed Commission, or examine them in Court by the End of the Term, wherein that renewed Commission is returnable, without any more or farther Delay.

No Commission *Ad examinandum Testes*, shall be executed in *London*, or within ten Miles thereof, without special Order first obtained upon Affidavit made of the Party's Inability to travel, or other good cause: And all Depositions taken by Commission in *London*, or within ten Miles thereof, without special Order as aforesaid, shall stand suppressed, and not be allowed to be read as Evidence at the Hearing of the Cause. And the Parties who shall cause the same to be executed, shall suffer such Punishment for their  
Con-

Contempt and Irregularity, as the Court shall think fit to inflict.

Where either Party, Plaintiff or Defendant, obtaineth an Order to use *Depositions of Witnesses* taken in another Cause, the adverse Party may likewise use the same without Motion; unless upon special Cause shewn to the Court by the Party obtaining the same, he be inhibited by the same Order so to do.

No Motion shall be made in Court, or by Petition, for suppressing Depositions as irregularly taken, until the Six Clerks, not towards the Cause, have been first attended with the Complaint of the Party grieved, and Certify the true State of the Fact to the Court, with their Opinion; if the Attorneys or Clerks on either Side, shall not for the Ease of their Clients agree before them; for which Purpose, a Rule for Attendance of the Six Clerks in such Case, shall be entred of Course with the Register at the Desire of the Party complaining, which shall warrant their Proceedings, and Certificate to the Court.

By an Order made 27 Feb. 19 Car. 2. It is ordained, That all Parties do at their Perils, as much as in them lies, make their *full Proof* before Publication passeth in the Cause: But if upon any Reference to a Master upon a Hearing for the Ease of the Court in stating

64    *The Attorney's Companion ; or,*  
of Accounts, &c. such Master shall find any particular Points or Circumstances needful to be proved to ground his Report upon, which are not fully proved, nor could properly be examined to before the Hearing of the Cause, he shall then direct the Partiest o draw Interrogatories to such Points or Circumstances only, and examine thereupon in Court by the Examiners, if the Witnesses shall be or reside within ten Miles of *London*, as by the Rules of Court they ought to do; but if farther off, and the Parties desire it, he may direct a Commission into the Country, which is to be made out by the Six Clerks; which said Commission and the Depositions thereby taken, shall be returned unopen'd to the respective Six Clerks, who ought to have the keeping thereof, and Publication to pass according to the Course of the Court in such Cases.

And all Examinations in this Court, not taken and kept of Record by the Six Clerks, or Examiners as aforesaid, are from henceforth declared to be void, and shall not be admitted to ground any Report, or otherwise to be made Use of in any Proceedings in this Court or at Law.

All *Commissions*, whereby any Depositions are taken and returned, which belong to the Six Clerks to receive, shall immediately upon the bringing in, or Return thereof into Court,

Court, be deliver'd to the Six Clerk, to whom the same doth properly belong, or his Deputy, to be safely and securely kept until Publication, and not be in any wise kept back or broke open by any of the Under-Clerks, or other Person, 'till Publication pass'd.

By an Order 29 April, 3 Jacob. 2. reciting That great Inconveniencies had happened in several Causes, by the exhibiting Interrogatories impertinently drawn into great Length, whereby the Suitors had been put to great unnecessary Charges; as also *Leading Interrogatories*, whereby the Witnesses, by turning the Negative into the Affirmative, were led to swear to the whole Contents of an Interrogatory, and oftentimes thereby ignorantly drawn in to forswear themselves: For Prevention thereof it is ordered, That no Interrogatories shall be exhibited for the Examination of any Witnesses in any Cause depending in this Court, whether in Court, in the Examiner's Office, or by Commission in the Country, before such Interrogatories shall be either drawn or perused by Counsel (after due Consideration had of the Pleadings) and signed by them.

And all Council are to take Care, that no Interrogatories do slightly pass their Hands, contrary to the true Intent and Meaning of this



66    *The Attorney's Companion; or,*  
this Order : And all Depositions taken contrary thereto, shall stand suppressed.

By Order made 19 Jan. 1694, no Copies of *Depositions* shall be read or made Use of, either in Court or before any Master in any Cause, but such as are taken out of the proper *Examiner's Office*, and signed for the Party for whom the same shall be read : And the Examiners by themselves, or Deputies, shall have Liberty to attend in Court, at the Hearing of all Causes, to inspect all Books of Depositions which are brought into Court and read, either for Plaintiff or Defendant, and to see whether they be duly signed for the Party that doth produce the same : And in case the said Examiners or their Deputies shall discover to the Court any Fraud or Practice committed by either of the Parties or their Agents in taking out surreptitious Copies of the Depositions; that then the Cause or Causes, wherein such Practice or Fraud is committed, shall be put off, and the Parties offending shall stand committed to the *Fleet*, until the Examiner injured be agreed with, and paid his due Fees; and until they shall have also paid the Sum of 5 *l.* for the Use of the poor; and until such Client or Clients as shall be prejudiced, by putting off his or their Cause, shall be reimbursed his and their Charges, in Respect thereof; and until the further Order of this Court.

By



By a late Order of 9 Feb. 8 Georgii, reciting, That the Court of Chancery had been inform'd, That *Commissioners* and their *Clerks* attending the Execution of Commissions for examining of Witnesses in Causes depending in this Court, did frequently before Publication pass'd, and even during the executing of such Commissions, disclose to or inform the Parties or their Agents of the Contents of the Depositions of the Witnesses taken on such Commissions, which introduced Perjury, and occasion'd tedious and unnecessary Examinations; For remedying whereof, it is order'd, that where any Commission issues for Examination of Witnesses, all and every the Commissioners named in such Commission, shall before they act in or be present at the swearing or examining any Witness or Witnesses upon Interrogatories in such Causes, severally take the Oath following:

*Oath of Commissioners to Examine Witnesses.*

‘ **Y**OU shall according to the best of your  
‘ Skill and Knowledge, truly, faithfully,  
‘ and without Partiality, to any or either of  
‘ the Parties in this Cause, take the Exami-  
‘ nations and Depositions of all and every  
‘ Witness and Witnesses, produced and exami-  
‘ ned by Virtue of the Commission hereunto  
‘ annexed, upon the Interrogatories now pro-  
‘ duc’d

68 *The Attorney's Companion; or,*

'duc'd and left with you; and you shall  
'not publish, disclose, or make known to  
'any Person or Persons whatsoever, except  
'to the Clerk or Clerks by you employ'd and  
'sworn to Secrecy in the Execution of this  
'Commission, the Contents of all or any of  
'the Depositions of the Witnesses, or any of  
'them to be taken by you and the other  
'Commissioners in the said Commission nam-  
'ed, or any of them by Virtue of the said  
'Commission, until Publication shall pass by  
'Rule or Order of the High Court of Chan-  
'cery.

*So help you God.*

Which Oath is to be annexed in a  
Schedule to the said Commission. And all  
and every the Clerk or Clerks attending the  
Execution of such Commission, and employ'd  
in Taking, Writing, Transcribing, or Engros-  
sing the Depositions of Witnesses examined  
on such Commission, shall before he or they  
be permitted to act as Clerk or Clerks or  
be present at the Execution of the Commission,  
severally take the following Oath:

Oath

W  
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And  
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ly an

*Oath of Clerks to Commissioners.*

‘ **Y**OU shall truly, and faithfully, and  
‘ without Partiality to any or either  
‘ of the Parties in this Cause, take and  
‘ write down, transcribe and ingross, the  
‘ Depositions of all and every Witness  
‘ and Witnesses produced before, and ex-  
‘ amined by the Commissioners, or any of  
‘ them named in the Commission hereunto  
‘ annexed, as far as you are directed and em-  
‘ ployed by the said Commissioners, or any  
‘ of them, to take, write down, or ingross the  
‘ said Depositions, or any of them; And you  
‘ shall not publish, disclose, or make known  
‘ to any Person or Persons whatsoever, the  
‘ Contents of all or any of the Depositions  
‘ of the Witnesses, or any of them, to be ta-  
‘ ken, wrote down, transcribed or ingrossed  
‘ by you, or whereto you shall have Recourse,  
‘ or be any ways privy, until Publication  
‘ shall pass by Rule or Order of the High  
‘ Court of Chancery.

*So help you God.*

Which said Oath is likewise to be annexed  
in the same Schedule to the Commission:  
And these Oaths the said Commissioners are  
by such Commissions, to be empower’d joint-  
ly and severally to administer to each other,  
and

70 *The Attorney's Companion; or,*  
and also to the Persons attending as Clerks to  
the said Commissioners.

In all Commissions which shall issue for  
Examination of Witnesses, the following  
Clause shall be added, and made Part of such  
Commission, next before the *Teste* thereof (*viz*)  
— *Et ulterius vob. & cuilibet vrm' Precipim.*  
*quod quilibet vestrum priusquam ipse procederit ad*  
*ministrand. aliquem Testem vob. producend. vel tali*  
*Examinationi interfuerit præstabit sacrum. in qua-*  
*dam Scheda presentib. Annexat primo specificat*  
*Et damus tribus duobus vel uni vrm. plenam pote-*  
*statem & auctoritatem conjunctim vel divisim*  
*Sacrm. illud sup. sacrosanct' Dei Evangel. Corporal.*  
*cæteris vel alicui al. vrm. ministrand. Et*  
*ult'ius Precipim. quod persona vel Persone inservi-*  
*ens ut Cl'icus aut inservientes ut Cl'ici ad capiend.*  
*scribend. vel transcribend. Depositi'o'es Testium pro-*  
*ducend. & examinand. virtute presentium prius-*  
*quam inservire ut Cl'icus vel Cl'ici ut prefertur aut*  
*alicui Examinationi alicujus tal. testis interesse*  
*permittetur seu permittentur præstabit aut præsta-*  
*bunt Sacrm in Scheda predict' secundo specificat*  
*Et Damus vob. & cuilibet vrm plenam pot'em & auct-*  
*oritatem conjunctim vel divisim Sacrm illud sacro-*  
*sanct' Dei Evangel. Corporal. tali Cl'co seu talibus*  
*Cl'icis ministrand. Teste &c.*

And further, if any Commissioner or Clerk  
attending the Commissioners. shall presume  
to act contrary to the Premisses, such Com-  
missioner or Clerk shall upon Proof of such  
Offence,

Offence, undergo such Punishment and Censure as this Court shall think fit to order and adjudge.

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*The Manner of Executing COMMISSIONS to Examine Witnesses.*

A Commission to examine Witnesses, is to examine them to the Cause, viz. as to the Merits thereof, or to some particular Point in Question; or it may be to examine them touching a Contempt, or the Breach of some Order, &c. Examination to the Cause is generally before Hearing, tho' sometimes it may be after Hearing, as upon an Account referred to a Master, or upon new Matter started at the Hearing.

Before this Commission issues, the Plaintiff is ordinarily to reply, and serve the Defendant with a *Subpœna* to Rejoin, and upon Return thereof give an Eight Days Rule to Rejoin; which the Defendant having done, or the Eight Days being expir'd, the Complainant may give two ordinary Return Days for the Defendant to produce his Witnesses, and then



then a peremptory Day ; before which, if the Defendant comes in, he may join in Commission with the Plaintiff ; or if the Plaintiff does not think fit to join in Commission, the Defendant may of Course upon Petition or Motion have one *ex parte*.

The Plaintiff usually hath the first taking out and Carriage of the Commission to examine Witnesses ; but if the Defendant has Witnesses which live beyond the Seas, where the Plaintiff has none, it should seem otherwise ; for in such Case he shall have a Commission granted him for examining his Witnesses only. And so he shall if his Witnesses here live a long Way off the Plaintiff's, as 70 or 80 Miles : So if when the Cause is at Issue, the Plaintiff will not go on to Commission, the Defendant may have a Commission to examine his own Witnesses, and shall have the Carriage thereof.

When either Party is entitled to have a Commission to examine Witnesses, his Clerk or Deputy calls upon the other Party's Clerk for four Commissioners Names ; which being given him in Time, he leaves with the other Clerk four Names also ; and after each Clerk hath consulted his Client or the Solicitor, he strikes out two of the four Names which had been so deliver'd, in this Manner : *First*, he that has the Carriage of the Commission, strikes out one of those that were named by the

the other Side ; and then the other strikes out one of those that were named by him, and so each of them strikes out one more, and the four remaining are the Commissioners.

But after the Names have been so struck as aforesaid, Exceptions may be taken to those remaining ; and the common Exceptions to a Commissioner, are these, *viz.* That he is of Kindred, or allied to the Party for whom he is named, or that he is Master to him, or his Landlord, Tenant, or Partner ; that he hath a Suit in Law with the Party adverse to him, for whom he is named ; or is of Council, Attorney, or Solicitor of the Cause on one Side ; or that the Party for whom named is indebted to him, or any other apparent Cause of Partiality or siding with either of the Parties.

If the Adverse Party doth not give or strike Names in Time, he who is to have the Carriage of the Commission, may, by Order upon Motion, name all the four Commissioners, and have a Commission *ex parte*.

Form of a Commission to Examine Witnesses.

Georgius, &c. A. B. C. D. E. F. & G. H.  
*Salutem. Sciatis quod nos de fidelitatibus & providis circumspeditionibus vestris plurimum confidentes, Assignamus ac tenore presentium damus vobis tribus el duobus vestrum plenam pot'em & auctoritatem*  
G
Testes

*Testes quoscunque de & super quibusdam Interrogatoriis tam ex parte I. K. Quer. quam ex parte L. M. Def. seu earundem partium alterius, vobis tribus vel duobus vestrum Administrand. sive deliberand. diligenter examinand. & ideo vobis tribus vel duobus vestrum mandamus quod ad certos dies & loca quos ad hoc previderitis prefat. Testes coram vobis tribus vel duobus vestrum venire faciatis & evocetis, ac ipsos Testes & eorum quemlibet per se separatim de & super Interrogat. pred. super Sacramenta sua tact. per ipos prius coram vobis tribus vel duobus vestrum Sacrosanctis Dei Evangeliiis corporaliter prestand. diligenter Examinetis Examinationesq; suas super eisdem recipiatis, & in scriptis in pergameno redigatis Et cum ill. sic ceperitis eas nobis in Cancellariam nostram (tali Retorn.) ubicunque tunc fuerit sub Sigillis vestris trium vel duorum vestrum distincte & aperte mittatis una cum Interrogat. pred. & hoc Breve, Teste &c.*

When the Commissioners for either Party have receiv'd the Commission, they must give Notice of the Time and Place of executing it to the other Side, in the following Form :

Notice

*Notice of executing a Commission.*

In Canc.

Inter I. K. Plt. }  
L M. Def. }

*By Virtue of a Commission out of his Majesty's High Court of Chancery to us A. B. C. D. E. F. and others directed for the Examination of Witnesses in this Cause, These are to give you Notice, That the Plaintiff I. K. intends to execute the said Commission on &c. next, at the House of &c. known by the Sign of &c. where you and your Commissioners may be present if you please, and see the same executed. Dated this &c.*

To Mr. L. M.

These

A. B.

C. D.

E. F.

This Notice is to be given to the Party fourteen Days before the Time of executing the Commission, or the Examinations shall be suppress'd ; (except a shorter Time be appointed by Order of Court) And the Witnesses are also to have a Notice or Summons to appear before the Commissioners, and depose their Knowledge, at the Time and Place appointed.

76      *The Attorney's Companion ; or,*

*A Notice or Summons for Witnesses.*

In Canc.

Inter I. K. Pl't' }  
L. M. Def. }

*Whereas we have received a Commission issuing out of his Majesty's High Court of Chancery to us and &c. Directed for the Examination of Witnesses in this Cause (or in a Cause wherein &c. is Plaintiff, and &c. Defendant) And whereas we are inform'd, That you whose Names are here under written, are material Witnesses for the Plaintiff (or Defendant) in this Cause, These are therefore, by Virtue of the said Commission, to will and require you and every of you personally to be and appear before us or any two or three of the said Commissioners at the House of &c. on &c. Then and there to be examined, and Testify your Knowledge for and on Behalf of the said Complainant: And you are then and there to attend, and not depart until you have been examined on the Part of the said Complainant. And herein you are not to fail. Given, &c.*

*To Mr. N. O. P. R.*

*A. B.*

*S. U. T. W. &c.*

*C. D.*

*E. F.*

*The Witnesses are called before the Commissioners by this Summons; and they may not refuse to appear to be examined, if their  
reasonable*



reasonable Charges, for Loss of Time, Pains and Expences, be paid them, which they may demand before Examination: And if a Witness refuse to appear and be examined before the Commissioners, being offered his reasonable Charges, the Court, upon Motion, will grant a *Subpœna* for him to be examined in Court at his own Costs.

When the Commissioners and Witnesses are met at the Time and Place appointed, according to the Notice, the Commission (which 'till that Time remain'd seal'd) must be opened, that the Commissioners may see their Authority: And then, having taken the Oath requir'd by the late Order, the Commissioners and their Clerks begin to execute the Commission; the Clerks draw up the Style of the Depositions in Paper, as follows:

DEPOSITIONS of *Witnesses taken at &c. in the County of &c. on the Day &c. by Virtue of a Commission issuing out of his Majesty's High Court of Chancery, to us directed for the Examination of Witnesses in a Cause there depending between I. K. Complainant, and L. M. Defendant, on the Behalf of the Plaintiff.*

Then the Commissioners call a Witness, and cause all Persons but themselves, their Clerks, and the Witness to be examined, to

78 *The Attorney's Companion; or,*  
depart the Room; and then administer the  
Oath to the Witness.

*Oath to be administered to Witnesses.*

‘ By Virtue of a Commission to us directed  
‘ out of the High Court of *Chancery* for Exa-  
‘ mination of Witnesses in a Cause there de-  
‘ pending, wherein *I. K.* is Plaintiff, and *L. M.*  
‘ Defendant, you are to be produced and  
‘ sworn as a Witness on the Complainant’s  
‘ Part : You are therefore to all such Interro-  
‘ gatories as shall be administered unto you, as  
‘ well on the Part and Behalf of the Com-  
‘ plainant as of the Defendant, speak the  
‘ Truth, the whole Truth, and nothing but  
‘ the Truth.

*So help you God.*

‘ Or, the Oath may be shorter; ‘ That you  
‘ shall true Answer make to all such Inter-  
‘ rogatories as shall be administered to you  
‘ on the Part and Behalf of *L. M.* Defendant  
‘ to the Bill of Complaint of *I. K.* Complain-  
‘ ant; and herein you shall speak the Truth,  
‘ and nothing but the Truth.

*So help you God.*

The Oath being given, the Witness’s Name,  
Place of Abode, Addition and Age, are to be  
writ in the same Paper, under the Title of  
the Depositions, thus;

N. O. of &c. Gent. Aged about &c. Years and upwards; sworn and examined on the Behalf of the Plaintiff, &c. saith as followeth:

1. 'Imprimis, To the first Interrogatory, this Deponent saith, That &c.
  2. 'Item, To the second Interrogatory, this Deponent saith &c.
  3. 'Item, to the Third Interrogatory, &c.
- And so go through his Examination, to all the Interrogatories.

All the Witnesses being examined, let each Witness set his Name to each Deposition; and then the Depositions are to be ingross'd in Parchment, and examined with the Papers; after which the Commissioners sign each Schedule of the Parchment, as also the Interrogatories, and then bind them up together with the Commission with red Tape, setting their Seals upon the same: But before they seal up the Commission, &c. they are to endorse upon it the Execution, after this Manner:

*Executio istius Com. patet in quibusd'm Schedulis (or, quadam Schedul.) huic Com. annex.*

And thereto they are also to subscribe their Names: And the Commission being thus executed

cuted and made up, the Commissioners must deliver it personally to the Person that brings it to Town, who is to deliver it to a Master in *Chancery*, and make Oath before him, as followeth.

*Oath on Delivery of the Commission executed.*

' *A. E.* of *Ec.* maketh Oath, That on *Ec.*  
' last, he receiv'd the Commission now de-  
' liver'd, from the Hands of *Ec.* one of the  
' Commissioners therein named, and that the  
' same hath not been open'd or alter'd since he  
' received it.

If the Commissioners cannot agree, or meet with any Obstruction in executing the Commission, that or what else is necessary to inform the Court of, must be certified by the Commissioners in the Return of the Commission.

And in such Cases, where the Execution of the Commission is prevented, the Court will sometimes send an Examiner down into the Country.

If there be any *Writings* directed by the Commission to be proved, the Commissioners are to give Directions to bring them in for that Purpose : And after they are prov'd, Exhibits may be made of them.

*An Exhibit of proving an Indenture before Commissioners, Indorsed on the Backside.*

August 20, 1723.

' At the Execution of a Commission issuing out of his Majesty's High Court of Chancery, for Examination of Witnesses in a Cause there depending between &c. Plaintiff, and &c. Defendant, This Indenture, or Parchment Writing was produced and shewn to &c. and &c. and by them deposed unto at the Time of their several Examinations to the Second and Third Interrogatories on the Complainant's Part, and was also produced and shewn to &c. and by him deposed unto at the Time of his Examination, to the Second Third and Fourth Interrogatories on the Complainant's Part before us:

A. B. }  
C. D. } Commissioners.  
E. F. }

The Manner of Proving any thing or Matter in the Chancery, is either by Depositions of Witnesses, by Deeds and other Writings, made Exhibits in the Cause, or by Witnesses examined in Court.

If a Witness hath deposed falsely in Part, as where his Depositions contain manifest  
Con-



Contrarieties, his Depositions shall be wholly jected: And where a Witness's Depositions on one Side, contradict his Depositions on the other Side, the Court will order him to attend, that he may explain himself; and if he cannot set the Matter right, his Depositions on both Sides will be suppress'd.

The Copies of all Depositions of good Witnesses, regularly taken in the Cause, and duly kept, published, and sign'd, may ordinarily be read as Evidence at the Hearing.

Witnesses are sometimes examined in *Chancery, in perpetuam Rei memoriam*, which is done to preserve their Testimony, in case of Death, &c. And to obtain such a Commission, you are to exhibit a Bill, and therein set forth your Title to the Thing in Question, and that the Witnesses to prove it are old, infirm, and not like to live long, or that they are going beyond Sea, whereby you are in Danger of losing their Testimonies, &c. and therefore pray a Commission into the Country, to examine them, &c. The Form of such a Bill follows:

*A Bill in Chancery, to Examine Witnesses in perpetuam Rei memoriam.*

'Humbly complaining, Sheweth, &c. Your  
'Orator *A. B.* Son of *T. B.* late of &c. That  
'the said *T. B.* was in his Life-time seised in  
his

his Demesne as of Fee Simple of and in All  
that Messuage &c. And being so seised as  
aforesaid, did on or about &c. make his Last  
Will and Testament in Writing, and a-  
mongst several other Devises and Requests,  
he the said *T. B.* did Devise and Bequeath  
&c. to the said *A. B.* his Son &c. And al-  
so &c. And he did thereby revoke all for-  
mer Wills by him the said *T. B.* made &c.  
And your Orator farther sheweth unto your  
Lordship, that the said *T. B.* having Sign'd,  
Sealed, Published, and Declared his said  
Last Will and Testament in the Presence  
of three Credible Witnesses, and the said  
Witnesses having subscribed and attested the  
said Last Will and Testament in the Pre-  
sence of him the said *T. B.* did deliver his  
Last Will and Testament to &c. to be pre-  
served and kept, and shortly after, that is  
to say, on or about &c. the said *T. B.* dy'd  
leaving behind him your Orator &c. And  
your Orator did well hope there could be  
no Pretence of Cavil about the said Last  
Will and Testament of the said *T. B.* And  
that your Orator should quietly hold and  
enjoy the Estate of him the said *T. B.* ac-  
cording to the true Intent and Meaning of  
his said last Will and Testament. *But now*  
so it is, may it please your Lordship, that  
*L. B.* of &c. doth pretend Title to the E-  
state of your Orator's Father, and doth give  
out

' out in Speeches, that your Orator's late Fa-  
 ' ther had no Power to Devise the said E-  
 ' state by his Will, and at other Times, that  
 ' if he had Power, that he made no Will,  
 ' nor any Devise thereof, and in Case he  
 ' made any Will, that he was not *compos men-*  
 ' *tis*, or of sound and disposing Memory at  
 ' the making thereof ; In tender Considera-  
 ' tion whereof, and forasmuch as your Ora-  
 ' tor's Witnesses, or most of them that can  
 ' prove the said last Will and Testament of  
 ' the said T. B. are aged and infirm, and not  
 ' like to live long &c. And to the Intent he  
 ' may examine them in this Court for Preser-  
 ' vation of their Testimony for Proof of the  
 ' said Will, and that the same Will by which  
 ' the said Lands &c. are Devised, may  
 ' be produced by your Orator in this Ho-  
 ' nourable Court, and the Evidence, Deposi-  
 ' tions, and Testimony thereof, and touch-  
 ' ing the same may be here preserved for the  
 ' making out your Orator's Title to the said  
 ' Lands and Premisses. And to the End your  
 ' Orators Tenants in Possession of the said  
 ' Lands and Premisses, may by this Honour-  
 ' able Court be quieted and established. And  
 ' that your Orator may be relieved in all  
 ' and singular the Premisses,

*May*

vi  
in  
wi  
Pr

*May it please your Lordship, the Premisses considered, to Grant unto your Orator his Majesty's Commission under the Seal of this Honourable Court, Directed to A. B. C. D. &c. or to such Persons as your Lordship shall think fit, inhabiting in the said County of &c. for the examining of your Orator's said Witnesses in perpetuum Rei memoriam, for the Proof of the Matters aforesaid. And also his Majesty's most gracious Writ of Subpoena directed to the said L. B. thereby commanding him at a certain Day therein limited, personally to be and appear before your Lordship in this High and Honourable Court of Chancery, to make Answer unto all and singular the Premisses aforesaid, and to stand to and abide such Order therein as to your Lordship shall seem meet.*

*And your Orator shall ever pray, &c*

After the Bill is filed, the Court, on Affidavit made that the said Witnesses are old and infirm, &c. if they live in the Country, will grant a Commission according to the Prayer of the Bill; Or if they are with-

H

in

86     *The Attorney's Companion; or,*  
in ten Miles of *London*, will order them to be  
examined in Court.

The Depositions taken in these Cases, are  
not ordinarily to be published 'till the Wit-  
nesses are dead; but then they may be pub-  
lished, and given in Evidence in this Court,  
or at Law, against the Persons who were sum-  
moned to defend the Bill, their Heirs or  
Assigns.

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## INTERROGATORIES *and* DEPOSITIONS.

*Interrogatories to prove a Will.*

**Pro Quer.** *Interrogatories to be Admini-  
stered to Witnesses to be produced on  
the Part and Behalf of A. B. Com-  
plainant, against C. D. and others, De-  
fendants.*

1. *'Imprimis, Do you know the Parties,  
'Complainant and Defendants, or any or  
'either, and which and how many of them?  
'How long have you known them, or any  
'or either of them? Did you know L. D. de-  
'ceas'd,*



‘ceas’d, late Husband of the said C. D. in his  
‘Life time? How long did you know him  
‘before his Death, and about what Time did  
‘he die? *Declare.*

2. *Item,* Whether did you know of any  
‘Will that the said L. D. in his Life-time  
‘made? How long was the same made before  
‘his Death? Is the Paper Writing now pro-  
‘duced, and shewn to you, such Will as he  
‘then made? Doth such Will contain the  
‘Words following (that is to say) *In the Name*  
‘*of God Amen &c.* (here set forth the Will  
‘*verbatim*) Have you carefully compared and  
‘examined such Will with the Words in this  
‘Interrogatory? and doth the same exactly  
‘agree with the Words of the Interrogatory,  
‘as near as you can possibly examine and  
‘compare the same together. Were you well  
‘acquainted with his Hand-writing? Did he  
‘read the same, or was the same read over  
‘to him before he Signed, Sealed, and Pub-  
‘lished the same? Did you see him Sign,  
‘Seal, and Publish the same as and for his  
‘last Will and Testament, in your Presence.  
‘Who was then there present besides yourself?  
‘Where was the same so done? Was the said  
‘L. D. at that Time of good sound Mind,  
‘Memory, and Understanding, as you know  
‘or believe? Did you afterwards subscribe  
‘your Name as a Witness thereto in the Pre-  
‘sence of the said L. D. or in the same Room

' wherein he then was? who else was present  
 ' besides yourself, and Witnesses also thereto?  
 ' Did they also set their Names as Witnesses  
 ' thereto, in the Testator's Presence, or in the  
 ' Room wherein he then was? Is your Name  
 ' set thereto as a Witness of your own Hand-  
 ' writing, and are the Names or Marks of  
 ' the other Persons set thereto of their Hand-  
 ' writing? How long did the said *L. D.* live  
 ' after the Sealing and Publishing his said  
 ' Will. *Declare* what you know, believe, or  
 ' have heard to this Interrogatory, with your  
 ' Reasons and Circumstances at large.

' 3. *Item*, Whether was you a Witness to  
 ' the last Will and Testament of the said *L. D.*?  
 ' Is the Parchment Writing now produced  
 ' and shewn to you a true Copy of that  
 ' Will he so made, and whereto you were  
 ' Witness? Have you carefully compared and  
 ' examined the same with the said Will, and  
 ' doth such Copy agree therewith. *Declare.*

*G. E.*

E. F. }  
 G. H. } Commissioners.

*Depositions*

## Depositions taken on the foregoing Interrogatories.

**Ex parte Quer.** Depositions of Witnesses had and taken the Day of and Tear &c. at the House of I. L. situate &c. known by the Sign of &c. By Virtue of a Commission issued out of his Majesty's High Court of Chancery, to us E. F. and G. H. Gent. and also &c. directed for Examination of Witnesses in a Cause there depending between A. B. Complainant, and C. D. &c. Defendants, on the Part and Behalf of the Complainant, as followeth (that is to say).

N. O. of E. c. Gent. aged thirty Years and upwards, being sworn and examined, Depo-  
eth as followeth:

1. ' To the First Interrogatory this Depo-  
' nent saith, That he knoweth the Complai-  
' nant, and also all the Defendants, and like-  
' wise did know L. D. deceased in this Inter-  
' rogatory named, in his Life-time, and for  
' many Years before his Death, which hap-

pen'd on or about &c. last past, as this Deponent believes.

2. ' To the Second Interrogatory this Deponent saith, That he the said *L. D.* during the Time of his last Sickness whereof he dy'd, desir'd this Deponent to make and draw up his last Will and Testament in Writing, which accordingly this Deponent did about a Fortnight or more before his Death, and shewed the same to the said *L. D.* and read it over to him, who ordered some small Alterations to be made, and then this Deponent transcribed the same, and left it with the said *L. D.* to peruse, who some Time after acquainted this Deponent, that he had perused it, and was well satisfied therewith, And saith, That the Paper Writing now produced and shewn to this Deponent, at the Time of his Examination, bearing Date, &c, last past, is the same Will of the said *L. D.* which this Deponent so made and transcribed, and which the said *L. D.* duly executed on the Day of the Date thereof; And this Deponent further saith, that he hath carefully examined and compared the said Will with the Words in this Interrogatory, and the same doth exactly agree with such Words as near as this Deponent could possibly examine, and compare the same together; And this Deponent further saith, that the  
said

‘ said *L. D.* did Sign and Seal and Publish the  
‘ same, as and for his last Will and Testa-  
‘ ment, in the Presence of this Deponent, and  
‘ *P. R.* and *S. T.* the other Witnesses thereto, at  
‘ the House of him the said *L. D.* situate &c.  
‘ on the said Day &c. last, and afterwards the  
‘ said *P. R.* put his Hand, the said *S. T.* his  
‘ Mark, and this Deponent his Hand, as Wit-  
‘ nesses to the Sealing and Publishing thereof,  
‘ by the said *L. D.* in his Presence, and in the  
‘ same Room where he the said *L.* then exe-  
‘ cuted the same, and that the Names *P. R.*  
‘ and *N. O.* so thereto subscribed, are the pro-  
‘ per Hand-writing and Hand-writings of the  
‘ said *P. R.* and *N. O.* this Deponent respec-  
‘ tively. And that the following Mark, viz.  
‘ &c. made on the said Will, is the Mark  
‘ which the said *S. T.* made thereon, in Testi-  
‘ mony of his being a Witness to the Execu-  
‘ tion thereof; and this Deponent further  
‘ saith, that the said *L. D.* at the Time of  
‘ his Signing, Sealing, and Publishing the  
‘ said Will, was of sound Mind, Memory, and  
‘ Understanding, and well knew what he did  
‘ when he executed the same, and saith, that  
‘ the Will after it was so published and at-  
‘ tested, was delivered to the said *L. D.* to be  
‘ disposed of as he thought fit; And the same  
‘ was afterwards delivered by the said *L. D.*  
‘ as this Deponent hath heard and believes,  
‘ to



92 *The Attorney's Companion; or,*  
'to C. D. his Wife, now one of the Defen-  
'dants.

3. 'To the Third Interrogatory this Depo-  
'nent saith, He was a Witness to the last  
'Will and Testament of the said L. D. And  
'that the Parchment Writing now produced  
'and shewn to him this Deponent at the Time  
'of his Examination, is a true Copy of the  
'Will so made, and whereto this Deponent  
'was a Witness; And saith that he hath care-  
'fully compared and examined the same with  
'the said Will, and that it agrees therewith,  
'as near as this Deponent could possibly exa-  
'mine and compare the same together.

N. O.

E. F. }  
G. H. } Commissioners.

*Interrogatories for proving a Conveyance, and  
the Value of Lands.*

*Pro Quer. Interrogatories to be administred to  
Witnesses to be produced on the Part  
and Behalf of A. B. Complainant, a-  
gainst C. D. &c. Defendants.*

1. 'Imprimis, Do you know the Parties  
'Complainant and Defendants, or any, or ei-  
'ther, and which of them? How long have  
'you known them, or any of them?

2. *Item,*

2. 'Item, Whether did you see the Indenture now produced and shewn to you, bearing Date &c. sealed and delivered by the said &c. as his Act and Deed; And did you indorse your Name as a Witness to the Sealing and Delivery thereof? And is your Name there written of your own proper Hand writing? Who else were Witnesses besides yourself as you know or believe. *Declare.*

3. 'Item, Whether were you present, and did you see the said &c. sign the Receipt indorsed on the Backside of the said Indenture in the last Interrogatory mentioned, purporting a Receipt for the Sum of &c. as the Consideration-Money mentioned in the said Indenture? And did you subscribe your Name as a Witness to the said Receipt, and is your Name there subscribed of your own Hand-writing? *Declare.*

4. 'Item, Whether do you know the Messuage, or Tenement in the said Indenture mentioned to be situate &c. in the Possession of the Defendant C. D. What is the said Messuage or Tenement worth by the Year? Or how much is the same now let for by the Year as you know or believe? Is that the true and real yearly Value thereof? How long hath the same been let at that Rate as you know or believe? *Declare.*

E. F.

G. E.

G. H.

*Depositions*

*Depositions of Witnesses to the preceding Interrogatories.*

*Ex parte Quer.* *Depositions of Witnesses had and taken &c. at &c. By Virtue of a Commission issued out of his Majesty's High Court of Chancery, &c. in a Cause there depending between A. B. Complainant, and C. D. and others, Defendants, on the Part of the Complainant.*

T. R. of &c. Gent. aged about 40 Years, and upwards, being sworn and examined, deposeth as followeth:

1. 'To the First Interrogatory this Deponent saith, That he knows the Complainant 'A. B. and hath so known him for ten Years 'last past, and doth also know the Defendant 'C. D.

2. To the Second Interrogatory this Deponent saith, That he did see the Indenture 'now produced and shewn to him, bearing 'Date, &c. sealed and delivered by the said ' &c. as his Act and Deed; And thereupon 'he this Deponent did indorse his Name, as 'a Witness to the Sealing and Delivery thereof by the said &c. And saith, that the 'Name T. R. so thereon indorsed as a Witness,

' is

' is the proper Hand-writing of him this Deponent.

3. ' To the Third Interrogatory this Deponent saith, That he was present, and did either see the said *Ec.* sign or subscribe his Name to the Receipt indorsed on the said Indenture in the preceding Interrogatory mentioned, or did hear the said *Ec.* acknowledge, that the Name, *Ec.* subscribed to the said Receipt, was the Hand-writing of the said *Ec.* And thereupon this Deponent did subscribe his Name as a Witness to the said *Ec.* his so signing or acknowledging thereof; And saith, that the Name *T. R.* thereto subscribed as a Witness, is the proper Hand-writing of him this Deponent.

*T. R.*

*H. W.* of *Ec.* aged about *Ec.* Years, being sworn and examined deposeth as follows:

' To the Fourth Interrogatory this Deponent saith, That he well knows the Messuage or Tenement in this Interrogatory mentioned, situate, *Ec.* And saith, that the same, in this Deponent's Judgment, is worth 20 *l. per Annum* to be let, And that the same hath been let at that Rent for several Years last past, until about *Ec.* And this

' De-

' Deponent the betters knows the same, for  
' that he this Deponent hath been employ-  
' ed by the Defendant C. D. as an Agent in  
' receiving the Rents thereof for about seven  
' Years last past.

H. W.

E. F. }  
G. H. } Commissioners.

*Interrogatories for Proof of Debts, by Bond,  
Note, &c.*

*Pro Def. Interrogatories to be Administred to  
Witnesses to be produced on the Part  
and Behalf of C. D. and others De-  
fendants, at the Suit of A. B. Com-  
plainant.*

1. ' *Imprimis*, Do you know the Parties,  
' Complainant and Defendants, or any, or ei-  
' ther, and which and how many of them,  
' &c.

2. ' *Item*, Whether do know of any Money  
' owing by T. D. at the Time of his Death,  
' that have been paid by the Defendants C. D.  
' &c. or either and which of them since the  
' Death of the said T. D. If yea, set forth the  
' same, and the Sums of Money so paid, and  
' to whom, and for what. Whether was such  
' Money so paid, secured to each, or any of  
' them, by Bond, Bill, Note, or otherwise?

' Were



Were you a Witness to such Bond, Bill, or Note, whereby such Debt became secured, due or payable by or from the said T. D. Whether did you receive the same, or did you see the same paid, or were you present, and did you see the Acquittance or Acquittances given for Receipt thereof, signed by the Persons receiving the same? And did you subscribe your Name as a Witness to such Acquittances, *Declare* what you know or believe herein, with your Reasons.

3. *Item*, Whether do you know of any Money owing by the said T. D. at the Time of his Death, and yet unpaid? Or any Goods sold and deliver'd to him in his Life-time, and to what Value? Or any Money laid out for the Funeral of the said T. D. If yea, set forth the particular Sum and Sums so owing, and to whom, and for what? Whether was there any and what Security given therefore, as you know or believe? Were you a Witness to the lending thereof, or did you see such Securities given therefore, Sign'd or Sealed, and executed by the said T. D. in his Life-time for Payment thereof, or how else do you know the same? *Declare.*

4. *Item*, Whether did you see any or either and which of the Bonds, Notes, Papers, and Writings, now produced and shewn to you, sign'd or sealed by the said T. D. And  
I did

'did you subscribe or indorse your Name as  
'Witness thereto? Are you acquainted with  
'the Hand-writing of the said T. D. or with  
'the Hand-writing of either of the Persons  
'whose Names are subscribed as Witnesses  
'thereto? Are they or either of them dead,  
'as you know or believe? *Declare.*

*E. F.**G. H.**G. E.*

**Depositions to the Interrogatories for Proof of  
Debts.**

**Ex parte Def.** *Depositions of Witnesses had  
and taken by Virtue of a Commission  
&c. in a Cause there depending between  
&c. on the Part and Behalf of the  
Defendant, as followeth (that is to say)*

*I. K. of &c. aged &c. being Sworn and Ex-  
amined, deposeth as follows :*

2. 'To the Second Interrogatory this De-  
ponent saith, That since the Decease of T. D.  
'in this Interrogatory named, he heard &c.  
'own and acknowledge, that he had and re-  
'ceived of the Defendant C. D. as the said  
'T. D's Executor, the Principal Money and  
'Interest due on a certain Bond entred into  
'by the said T. D. and others, to the said

*&c.*

‘*£c.* and which Money was unpaid at the Death of him the said *T. D.* And this Deponent believes, that the Bond now produced and shewn to him this Deponent, at the Time of his Examination, bearing Date ‘*£c.* purporting to be an Obligation from the said *T. D.* to the said ‘*£c.* of ‘*£c.* Penalty for Payment of ‘*£c.* on ‘*£c.* then next ensuing, is the same Bond which the said ‘*T. D.* so paid off to the said ‘*£c.* because this ‘Deponent had the said Bond some Time in ‘his Custody.

I. K.

*L. M.* of ‘*£c.* aged ‘*£c.* being Sworn and Examined, deposeth as followeth:

3. ‘To the Third Interrogatory this Deponent saith, That *T. D.* in this Interrogatory named, was justly indebted unto this Deponent’s late Husband *T. M.* deceased, in the ‘Sum of ‘*£c.* for Goods sold and delivered, as by the Note delivered by this Deponent’s said late Husband unto the said ‘*T. D.* in his Life-time, and by the Deponent’s late Husband’s Day-Book or Journal, which agreed with the said Note, appears to her this Deponent; And this Deponent further saith, That the said Money ‘was never paid to this Deponent’s Husband ‘in his Life-time to her Knowledge, nor to ‘this Deponent since his Death, but that

100 *The Attorney's Companion; or,*  
' the same still remains unpaid and unsatisfied.

*L. M.*

*N. O.* of *Ec.* aged *Ec.* being sworn and examined, deposeth as followeth:

4. ' To the Fourth Interrogatory this Deponent saith, That he did see the Bond or Paper Writing, now to this Deponent produced at the Time of his Examination, bearing Date, *Ec.* purporting to be an Obligation from *Ec.* in this Interrogatory named to *Ec.* of the Penalty of *Ec.* for the Payment of *Ec.* on *Ec.* then next ensuing, now last past, sealed and delivered by the said *Ec.* as his Act and Deed, and thereupon this Deponent subscribed his Name as a Witness to such his Execution thereof, And saith, That the Name *N. O.* so subscribed as a Witness, is of this Deponent's own proper Hand-writing.

*N. O.*

*E. F.* }  
*G. H.* } Commissioners.

**INTERROGATORIES**

## INTERROGATORIES in various Cases.

## To Prove Rents received.

1. *I Mprimis*, Have you been acquainted with the Hand-writing of T. D. deceas'd, the Defendant's late Father? Do you believe the Writing or Rental now shewed you, to be the proper Hand-writing of the said T. D. Or whose Hand-writing do you believe the same to be? *Declare, &c.*

2. *Item*, Are the Writings now shewed unto you, or either and which of them, true Rentals of the Estate whereof E. B. the Plaintiff's Father deceased, was seised at the Time of his Decease, or any or what Part or Parts thereof? Were you at any Time or Times, and when since the Decease of the said E. B. And for how long Time, and by whom were you employ'd by the said T. D. the Defendant's Father in his Life-time, in or about the gathering or receiving the Rents of the Plaintiff's Estate, or any and what Part thereof? Or do you know of any other and what other Person or Persons who was or were so employ'd by the said T. D. *Declare, &c.*

I 3

3. *Item*,



3. *Item*, Do you know or have heard that the said *T. D.* the Defendant's Father deceased did receive for the Plaintiff, in his Right, the Rents of any and what Lands, Tenements and Hereditaments lying in *℄c.* And when and for how long Time did the said *T. D.* receive the same? And were you at any Time, when, and for how long Time employ'd by the said *T. D.* in receiving those Rents? And do you know of any other Person or Persons that was or were at any Time, and when employ'd by the said *T. D.* in and about receiving of the Rents of any Lands or Tenements whatsoever, lying within the said Parishes of *℄c.* or either of them? *Declare, ℄c.*

4. *Item*, Do you know the yearly Value of the Quit Rents of the Plaintiff's Mannors of *℄c.* in the County of *℄c.* or any, or which of them? Have you seen a Rental or Rentals thereof? And what are the Reasons of such your Knowledge? *Declare, ℄c.*

5. *Item*, Do you hold of the Plaintiff, as his Tenant, any and what Lands or Tenements lying within the Parishes of *℄c.* aforesaid, or either of them, in the County of *℄c.* And for how long Time have you so held the same? And what are the yearly Rents thereof? *Declare the Truth ℄c.*

6. *Item*, Did the said *T. D.* or any for him, or any by his Direction or Appointment, at any

‘any Time or Times in his Life-time? And  
 ‘for how long Time receive of you or any  
 ‘other, and what other, or out of the Plain-  
 ‘tiff’s Tenements, or any of his Lands lying  
 ‘in the said Parishes of &c. any Rent or Rents  
 ‘thereof? And what or how much Rent or  
 ‘Rents did you or such other Person or Persons  
 ‘pay? *Declare what you can say to this Interroga-  
 ‘tory, according to the best of your Knowledge or  
 ‘Belief, with the Reasons of such your Knowledge  
 ‘and Belief.*

E. F.  
 G. H.

T. E.

*To prove a Person Heir, and the Possession of Lands  
 &c.*

1. ‘*Imprimis*, Do you know when *A. B.*  
 ‘&c. and *A.* his Wife did depart this Life?  
 ‘And is the Complainant *E.* the sole Daugh-  
 ‘ter and Heir of the said *A. B.* And what  
 ‘Age was she of at the Decease of the said  
 ‘*A. B.* her Father. *Declare.*
2. ‘*Item*, What is the true yearly Value  
 ‘of the Messuages, Tenements and Lands,  
 ‘which were held by the said *A. B.* in &c.  
 ‘And for how long Time hath the Defendant  
 ‘*C. D.* or any for him held and enjoy’d the  
 ‘same?

' same? And what yearly Rent was reserved  
' to the Lord of the said Mannor, to be paid  
' for the same Messuages and Lands? *Declare*  
' *℥c.*

3. ' *Item*, Do you know the Mannor or  
' Lordship of *℥c.* in the County of *℥c.* And  
' do you know that any, and what Lands and  
' Tenements, Parcel of *℥c.* and lying with-  
' in the said Mannor or Lordship, have been  
' Demised or Demiseable by Copy of Court  
' Roll, according to the Custom of the Man-  
' nor, (that is to say) for three Lives *℥c.* as  
' by Surrender or Copy of Court-Roll thereof,  
' the same should be limited or appointed?  
' *Declare ℥c.*

4. ' *Item*, Do you know that the said *℥c.*  
' and any and which of them were in their  
' Life-times, and when seized, according to  
' the said Custom, of a certain Tenement and  
' Lands thereunto belonging, Parcel of the  
' said Mannor or Lordship lying, *℥c.* And  
' did the said *℥c.* survive and over-live the  
' said *℥c.* And when did the said *℥c.* de-  
' part this Life? And do you know that the  
' said Tenement and Lands whereof the said  
' *℥c.* was so seised, are or have been Part of  
' the Customary or Copyhold Lands of the  
' same Mannor or Lordship? *Declare, ℥c.*

5. ' *Item*, Do you know, that about the  
' Month of *℥c.* in the Year of our Lord *℥c.*  
' or at any other Time after the Death of the  
' said

' said &c. And when, the said &c. being so  
' seised thereof, Did out of Court surrender,  
' according to the Custom of the said Mannor,  
' the said Customary Lands and Tenements  
' into the Hands of the then Lord or Lords of  
' the said Mannor, by the Hands of &c. two  
' of the Customary Tenants of the said Man-  
' nor, to the Use of him the said &c. And  
' &c. the Remainder to &c. Declare, &c.

6. ' Item, Do you know that the said &c.  
' or either of them, or any other Customary  
' Tenants of the said Mannor, and who by  
' Name, did at any Court or Courts holden for  
' the said Mannor of &c. And when present  
' any Surrender or Surrenders made by the  
' said &c. of the said Customary Tenement  
' and Lands, whereby the same were limited  
' after the Decease of the said &c. to the said  
' &c. Declare your Knowledge herein, with the  
' Reasons thereof.

E.F.

T.E.

G.H.

*To prove a Title to divers Mannors.*

1. ' *Imprimis*, Do you know the Plaintiffs  
' and Defendants in this Cause, any, and  
' which of them? And did you know T. B.  
' late of &c. deces'd, and &c. Wife of the  
' Defendant C. D. Sister of the said T. B. also  
' deces'd,



104 *The Attorney's Companion; or,*  
' same? And what yearly Rent was reserved  
' to the Lord of the said Mannor, to be paid  
' for the same Messuages and Lands? *Declare*  
' *&c.*

3. ' *Item,* Do you know the Mannor or  
' Lordship of *&c.* in the County of *&c.* And  
' do you know that any, and what Lands and  
' Tenements, Parcel of *&c.* and lying with-  
' in the said Mannor or Lordship, have been  
' Demised or Demiseable by Copy of Court  
' Roll, according to the Custom of the Man-  
' nor, (that is to say) for three Lives *&c.* as  
' by Surrender or Copy of Court-Roll thereof,  
' the same should be limited or appointed?  
' *Declare &c.*

4. ' *Item,* Do you know that the said *&c.*  
' and any and which of them were in their  
' Life-times, and when seized, according to  
' the said Custom, of a certain Tenement and  
' Lands thereunto belonging, Parcel of the  
' said Mannor or Lordship lying, *&c.* And  
' did the said *&c.* survive and over-live the  
' said *&c.* And when did the said *&c.* de-  
' part this Life? And do you know that the  
' said Tenement and Lands whereof the said  
' *&c.* was so seised, are or have been Part of  
' the Customary or Copyhold Lands of the  
' same Mannor or Lordship? *Declare, &c.*

5. ' *Item,* Do you know, that about the  
' Month of *&c.* in the Year of our Lord *&c.*  
' or at any other Time after the Death of the  
' said



' said &c. And when, the said &c. being so  
' seised thereof, Did out of Court surrender,  
' according to the Custom of the said Mannor,  
' the said Customary Lands and Tenements  
' into the Hands of the then Lord or Lords of  
' the said Mannor, by the Hands of &c. two  
' of the Customary Tenants of the said Man-  
' nor, to the Use of him the said &c. And  
' &c. the Remainder to &c. Declare, &c.

6. ' Item, Do you know that the said &c.  
' or either of them, or any other Customary  
' Tenants of the said Mannor, and who by  
' Name, did at any Court or Courts holden for  
' the said Mannor of &c. And when present  
' any Surrender or Surrenders made by the  
' said &c. of the said Customary Tenement  
' and Lands, whereby the same were limited  
' after the Decease of the said &c. to the said  
' &c. Declare your Knowledge herein, with the  
' Reasons thereof.

E.F.

T.E.

G.H.

*To prove a Title to divers Mannors.*

1. ' Imprimis, Do you know the Plaintiffs  
' and Defendants in this Cause, any, and  
' which of them? And did you know T. B.  
' late of &c. deceas'd, and &c. Wife of the  
' Defendant C. D. Sister of the said T. B. also  
' deceas'd,

106 *The Attorney's Companion; or,*  
'deceas'd, or either and which of them, in  
'their or either of their Life-times? *Declare,*  
'*Ec.*

2. 'Item, Do you know the Mannors or  
'Lordships of *Ec.* in the County of *Ec.*  
'And the Mannors and Lordships of *Ec.* in  
'the County of *Ec.* or any and which of  
'them? And was *A. B.* deceas'd, Father of  
'the said *T. B.* at any Time, and when, in  
'his Life-time, Owner or reputed Owner of  
'the same, or any and which of them? And  
'do you know what Person or Persons were  
'Owner or Owners of the same Mannors and  
'Premisses, or any and which of the same,  
'And when before such Time as the said *A. B.*  
'was Owner thereof? Did the said *A. B.* or  
'the said *T. B.* and which, or either of them,  
'purchase the same, or any, and which of the  
'same? Did the said *A. B.* marry with any,  
'and what Woman, who was Inheritrix of  
'the said Mannors and Premisses, or any and  
'what Part or Parts of the same? *Declare*  
'your Knowledge thereof, and the Reason of  
'such your Knowledge.

3. 'Item, Was the Deed or Writing, Deeds  
'or Writings, now shewed unto you, sealed  
'and delivered, and by whom? Were you a  
'Witness to the Sealing and Delivery there-  
'of? And is your Name subscribed and in-  
'dorsed as a Witness thereto, and of your  
'own Hand-writing? And have you been ac-  
'quainted

‘ acquainted with the Hand-writing of the Party  
 ‘ or Parties, or Witnesses to the said Deed or  
 ‘ Writing, Deeds or Writings, or any and  
 ‘ which of them? And do you verily believe  
 ‘ the Names of the said Party or Parties, and  
 ‘ Witnesses to the same Deed or Deeds, Wri-  
 ‘ ting or Writings, or any, and which of them,  
 ‘ to be their own proper Hand-writing? De-  
 ‘ clare, &c.

4. ‘ Item, Do you know that *E. B.* Sister of  
 ‘ the said *A. B.* deceas’d, was the Wife of  
 ‘ the Defendant *C. D.* And do you know the  
 ‘ Time of the Intermarriage between them  
 ‘ the said *E.* and the Defendant *C. D.* And  
 ‘ was the said *E.* only Sister of the said *T. B.*  
 ‘ Declare, &c.

5. ‘ Item, ‘ Do you know or have credibly  
 ‘ heard, that the said *T. B.* did or was at any  
 ‘ Time in his Life-time, and when, become  
 ‘ engaged with *A. B.* the Complainant’s Fa-  
 ‘ ther, as his Surety, for any and what Sum  
 ‘ or Sums of Money, or other, and what  
 ‘ Things, and to whom? And have not you  
 ‘ heard the said *T. B.* declare that he had suf-  
 ‘ fered much by Reason of the said Ingage-  
 ‘ ment from the Complainant? And did not  
 ‘ the said *T. B.* seem to be thereupon much  
 ‘ displeased, that he protested he would have  
 ‘ nothing more to do with the Complainant,  
 ‘ or Words to that Effect? Declare what you  
 ‘ have

' have heard the said *T. B.* say or speak therein.

6. ' *Item*, Did the said *T. B.* at any Time or Times, and when, in his Lifetime, use any, and what Words of Dislike touching the Complainant, or of the Complainant's not being to have the said *T. B.*'s Estate after his Decease, And did the said *T. B.* at any Time or Times in his Life, and when, use any, and what Words or Speeches touching the Complainant, or *A. B.* the Complainant's Father, and either, and which of them, whereby it did appear he was displeased with them, and either and which of them, and in whose Presence did he use Words or Speeches to that Effect? *Declare, &c.*

7. *Item*, ' Did the said *T. B.* at any Time or Times, and when, during the Time of his Sickneſs whereof he dy'd, or at any other Time or Times, or when, in his Life time, Declare or use any, and what Words and and Speeches, whereby it did appear that his Mind was that his said Estate should or might descend to the Defendant *C. D.* or to that Effect? Have you heard the said *T. B.* use any and what Expressions of Love and Affection towards the Defendant *C. D.* What Words of Love and Affection did he use towards him? Where did he use such Words, or Speeches, when and in whose Presence, and upon what Occasion did he use them? *Declare the Truth.*

8. ' *Item*,



8. *Item*, Did the Complainant, or any other Person or Persons for him, as you believe, and who by Name, at any Time or Times, and when, where, and in whose Presence, promise, or propose unto you, or to any other Person or Persons, any and what Reward, Offer, and Gratuity, to the Intent that you, or such other Person or Persons, should for such Reward or Gratuity, set on Foot some pretended Deed or Deeds, thereby to intitle the Complainant, or otherwise to prejudice the Defendent C. D's Title to the Estate of the said T. B. deceased? Or by which the same might seem to be intailed, or settled upon the Complainant to his Use? *Delare, &c.*

9. *Item*, Do you know M. B. of &c. And did the said M. B. at any Time or Times, and when, in the Life-time of the said T. B. by Letter, or otherwise, request you, or any other Person or Persons, and who by Name, to use Means to perswade or prevail upon the said T. B. to settle his Estate? Did the said M. B. then or at any other Time or Times, say and declare unto you that the said T. B. had made any Will or Sertlement of his Estate, and when, where and in whose Presence, did she so say or declare and upon what Occasion? *Declare, &c.*

10. *Item*, Did you know one G. H. who was Servant to the said T. B. in his Life-  
K time,



119 *The Attorney's Companion; or,*

'time, and when, and for how long Time did  
'he serve the said *T. B.* And did you at any  
'Time and Times, and when, since the De-  
'cease of the said *T. B.* hear the said *G. H.*  
'say or declare that the said *T. B.* had not  
'made any Last Will or Testament, or other  
'Settlement touching his Estate, or Words to  
'such Effect? When and in whose Presence,  
'did he so say and declare, and where and up-  
'on what Occasion? *Declare, &c.*

11. *Item,* 'Did the said *G. H.* at any Time  
'or Times, and when, say or declare to you,  
'or any, and what other Person or Persons,  
'that he did know of any Deed or Settlement  
'made by the said *T. B.* since the Time of *&c.*  
'And where, and upon what Occasion did the  
'said *G. H.* so say or declare? And when did  
'the said *T. B.* do *&c.* as you know or have  
'heard? *Declare the Truth.*

12. '*Item,* Did the Complainant at any  
'Time or Times, and when, by Letter or  
'Word of Mouth, send unto you or any o-  
'ther, and what other Person to your Know-  
'ledge, or enquire of you, or such other, to  
'be informed, Whether the said *T. B.* deceas'd  
'had given or settled any Estate to or upon  
'him the said Complainant? And what were  
'Contents of such Letter, Message, or In-  
'quiry, as you know or have heard? *Declare*  
'the Truth of your Knowledge herein.

*E. F.*

*G. H.*

*T. E.*

*To*

To prove Deeds, and Payment of Money.

1. *Imprimis*, Do you know the Parties, Plaintiffs and Defendants? Did you know, &c.

2. *Item*, Was the Deed or Writing now shewed you, sealed and delivered, and by whom, and were you a Witness to the Sealing and Delivery thereof? And is the Name subscribed and indorsed as a Witness thereunto of your own Hand writing? And whether have you been acquainted with the Hand-writing of the said Party or Parties, or Witnesses to the said Deed or Writing, or any and which of them, to be their own Hand writing? *Declare*.

3. *Item*, Do you know of any Sum or Sums of Money paid by &c. Or by any other by his Appointment to &c. the Defendant's Father, or to any other Person or Persons to his Use? What Sums did he, they, or any of them pay? When was the same paid, and to whom?

4. *Item*, Have you been acquainted with the Hand-writing of the said &c. the Defendant's Father? Do you believe the Receipts or Acquittances now shewed unto you, to be the proper Hand-writing of the said &c. or whose Writing do you believe the same to be? Were you a Witness to them, or any,

112 *The Attorney's Companion ; or,*

' and which of them ? And is your Name  
' subscribed or indorsed as a Witness, of your  
' own Hand-writing ? Have you been ac-  
' quainted with the Hand-writing of any of  
' the Witnesses to the said Receipts or Ac-  
' quittances, or any and which of them ? Do  
' you verily believe the Names of the said  
' &c. And of the Witness or Witnesses to the  
' said Receipts, or any, and which of them,  
' to be their own proper Hand-writing ? *De-*  
' *clare, &c.*

*To prove a Reference to Arbitrators.*

1. ' *Imprimis*, Do you know the Parties,  
' Plaintiff and Defendants in this Cause, or  
' any, and which of them, &c. *Declare.*

2. ' *Item*, Do you know, have credibly  
' heard, or believe, any Reference has been  
' propos'd by any or either, and which of  
' the Defendants, to the Complainant, to re-  
' fer the Matters in Question in this Suit, to  
' two indifferent Persons, to be chosen between  
' them as Arbitrators ? When and where was  
' such Proposal made ? Was it before or since  
' the Commencement of this Suit ? Were there  
' any Arbitrators, and who named ? And was  
' you one of the Persons named to be an Arbi-  
' trator on the Complainant's Side ? And who  
' was the Arbitrator on the Defendant's Side ?  
' Were there any Bonds of Arbitration  
drawn,

‘ drawn, and by whom entred into, and of  
‘ what Penalty, and what Time was limited  
‘ therein for the Arbitrators to make their A-  
‘ ward? Did the said Arbitrators make any  
‘ Award, or not? If not, What was the Ob-  
‘ struction or Impediment that hindred them  
‘ from so doing? *Declare the Truth upon this In-*  
‘ *terrogatory fully and at large.*

*A General concluding Interrogatory.*

*Item,* ‘ Do you know of any other Matter  
‘ or Thing, or have you heard of any thing  
‘ touching the Matters in Question, that may  
‘ tend to the Benefit and Advantage of the  
‘ Complainant in this Cause, besides what you  
‘ have been before interrogated unto? *Declare*  
*the same fully and at large, as if you had been there-*  
*unto particularly interrogated.*

E. F.

T. E.

G. H.

The foregoing Precedents of *Depositions* and  
*Interrogatories*, are a sufficient Variety for any  
Council, Attorney, or other Practiser of the  
Law, to instruct him how to draw others in  
more extraordinary Cases; as the Nature of  
of the Cause under Prosecution, and the Busi-  
ness he hath in Hand, shall occasionally re-  
quire.

F I N I S.





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A  
**T A B L E**  
O F  
**C O N T E N T S.**

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*C. J. L.*  
8/30/15